

AGREEMENT
BETWEEN CITY OF RAMSEY
AND
SCOTT ROBINSON AND JOHN AMUNDSON, dba
WHEELS OF THUNDER

Dated: December ____, 2010

This Agreement is made and entered into between the City of Ramsey, a Minnesota municipal corporation (the "City") and Youth First Marketing LLC, a Minnesota limited liability company ("Youth First.") and Scott Robinson and John Amundson, dba Wheels of Thunder.

WHEREAS the City and Youth First Marketing LLC, a Minnesota limited liability company ("Youth First") entered into a contract dated October ____, 2009 (the "09 Contract"). The purpose of the 09 Contract was for Youth First to provide sales services for the selling of print advertising in the City's newsletter known as the Ramsey Resident; and

WHEREAS, Youth First is no longer able to provide the sale services as contemplated in the 09 Contract; and

WHEREAS, Youth First, pursuant to the terms of the 09 Contract, is delinquent in its payments to the City in the amount of \$ _____ as of November 30, 2010; and

WHEREAS, Wheels of Thunder desires to and is capable of providing the necessary sales services required by the City as described in the terms and conditions stated below; and

WHEREAS, Wheels of Thunder is willing to assume all obligations and liabilities of Wheels of Thunder pursuant to the terms and conditions of the 09 Contract.; and

WHEREAS, the City requires sales services to be provided for the selling of print advertising in the City's newsletter known as the Ramsey Resident.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein the parties agree as follows:

1. TERM

1.1 Term.

This Agreement shall be in effect from the date of execution by the parties, and shall continue until terminated as provided herein.

2. WHEELS OF THUNDER'S OBLIGATIONS

2.1 General Description. Wheels of Thunder shall provide the following services generally described as:

Sell advertising space for publication in the City's bi-monthly publication known as the Ramsey Resident.

- 2.2 Wheels of Thunder shall compile all ads, complete the necessary copy and graphics and then forward the fully completed ad to the City. The City will be responsible for cutting and pasting the individual advertisements into the Ramsey Resident.
- 2.3 Wheels of Thunder will advertise the Ramsey Resident advertising space for sale on its web site, including the relevant price list.
- 2.4 Wheels of Thunder through its staff will represent the City and the Ramsey Resident in a professional, business-like manner at all times.
- 2.5 Wheels of Thunder shall provide the City with a current advertising rate schedule and keep the same current during the term of this Agreement listing the advertising rate charged for ad placement in the Ramsey Resident. The City may in its discretion amend the said rate schedule.

3. CITY OBLIGATIONS.

- 3.1 The City will display Wheels of Thunder on its web site and provide a link to Wheels of Thunder's web site for Ramsey Resident advertisement sales.
- 3.2 The City through its staff will, at all times, refer to Wheels of Thunder in a professional, business-like manner.

4. CONSIDERATION

- 4.1 For its sales services Wheels of Thunder shall receive fifty percent (50%) of all advertising revenue received by it for advertisements it sells in the Ramsey Resident.
- 4.2 Wheels of Thunder will require each of its advertising customers to make their advertising payment payable directly to the City.
- 4.3 All payments for sales services will be paid by the City within 30 days of the date the City receives the payment from the respective advertisers.

5. COMPLIANCE WITH LAWS/STANDARDS

- 5.1 General. Wheels of Thunder shall abide by all Federal, State or local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement
- 5.2 Licenses. Wheels of Thunder shall procure, at its own expense, all licenses, permits or other rights required for the provision of services contemplated by this Agreement.

5.3 Minnesota Law to Govern. This Agreement shall be governed by the construed in accordance with the substantive and procedural laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in the State of Minnesota.

6. INDEPEDNDENT CONTRACTOR STATUS

Wheels of Thunder is an independent contractor and nothing herein contained shall be construed to create the relationship of employer and employee between City and Wheels of Thunder. Wheels of Thunder shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide the sales services. Wheels of Thunder acknowledges and agrees that it employees are not entitled to receive any of the benefits received by City employees and said employees are not eligible for workers' or unemployment compensation benefits. Wheels of Thunder also acknowledges and agrees that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Wheels of Thunder and that it is Wheels of Thunder's sole obligation to comply with the applicable provisions of all Federal and State tax laws.

7. INDEMNIFICATION

Any and all claims that arise or may arise against Wheels of Thunder, its agents, servants or employees as a consequence of any act or omission on the part of Wheels of Thunder or its agents, servants, employees while engaged in the performance of the Agreement shall in no way be the obligation or responsibility of the City. Wheels of Thunder shall indemnify, hold harmless and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any negligent or willful act or omission of Wheels of Thunder, its agents, servants or employees, in the execution, performance, or failure to adequately perform Wheels of Thunder's obligations pursuant to this Agreement.

8. INSURANCE

8.1 General Terms. In order to protect itself and to protect the City under the indemnity provisions set forth above Wheels of Thunder shall, at Wheels of Thunder's expense, procure and maintain policies of insurance covering the term of this Agreement, as set forth below. Such policies of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the indemnity provisions herein. All retentions and deductibles under such policies of insurance shall be paid by Wheels of Thunder. Each such policy of insurance shall contain a clause providing that such policy shall not be cancelled by the issuing insurance company without at least 10 days written notice to the City of intent to cancel.

8.2 Coverage. The policies of insurance to be obtained by Wheels of Thunder pursuant to this section shall be purchased from a licensed carrier and shall include the following:

A) General Liability

A single or combined limit, occurrence-based comprehensive general liability insurance policy which shall include a broad form comprehensive liability endorsement and an Agreemental endorsement, which shall include the following coverages at a minimum:

See attached Certificate of Liability Insurance, which provides for required coverage attached as Exhibit A.

B) Automobile Liability

A single or combined limit automobile liability insurance policy for all owned, non-owned and hired vehicles, if any, used in the provision of services under this Agreement, which shall include the following coverages at a minimum:

See attached Certificate of Liability Insurance, which provides for required coverage attached as Exhibit A.

C) Workers' Compensation

See attached Certificate of Liability Insurance, which provides for required coverage attached as Exhibit A.

8.3 Failure to Provide Proof of Insurance. The City may withhold payments or immediately terminate this Agreement for failure of Wheels of Thunder to furnish proof of insurance coverage or to comply with the insurance requirements as stated above.

8.4 Nonwaiver. Nothing in this Agreement shall constitute a waiver by the City of any statutory limits or exceptions on liability.

9. TERMINATION

9.1 With or Without Cause. This Agreement may be terminated with or without cause, by either party upon thirty (30) days written notice.

9.2 Notice of Termination. Notice of Termination shall be made by certified mail or personal delivery to the authorized agent of the party. Notice of Termination is deemed effective upon delivery to the address of the party.

9.3 Effect of Termination. Termination of this Agreement shall not discharge any liability, responsibility or right of any party which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the effective date of termination.

10. AGREEMENT RIGHTS/REMEDIES

10.1 Rights Cumulative. All remedies available to either party under the terms of this Agreement or by law are cumulative and may be exercised concurrently or

separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

10.2 Waiver. Waiver for any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be modification for the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the City and Wheels of Thunder.

11. ASSUMPTION

Wheels of Thunder hereby assumes and agrees to pay all sums now or hereafter owed to the City in accordance with all the terms and conditions of the 09 Contract. Said payments will be made by Wheels of Thunder waiving its consideration defined in Section 4 herein until all amounts due to the City have been paid in full.

12. MODIFICATIONS

Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representatives of the City and Wheels of Thunder.

13. MERGER

13.1 Final Agreement. This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are not representations, warranties, or stipulations, either oral or written, not herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated below.

SCOTT ROBINSON AND JOHN AMUNDSON, DBA WHEELS OF THUNDER

CITY OF RAMSEY

Scott Robinson

By: _____
Its Mayor

John Amundson

By: _____
Its City Administrator

Dated: _____

Dated: _____

ASSIGNMENT

Youth First Marketing, LLC hereby assigns to Scott Robinson and John Amundson, dba Wheels of Thunder all of its rights, title, interest and obligations in and to that certain Agreement dated October ____, 2009 by and between the City of Ramsey and Youth First Marketing, LLC.

Youth First Marketing LLC, a Minnesota limited liability company

By: _____
Scott Robinson, Its President

DRAFT