

**Agreement for General Contractor Services
Rambler Revolution**

This Agreement is made on the ___ day of _____, 2011, between the Housing and Redevelopment Authority of and for the City of White Bear Lake, Minnesota (hereinafter "City"), whose business address is 4701 Highway 61, White Bear Lake, MN 55110, and _____, a Minnesota Corporation (hereinafter "Contractor") whose business address is _____, MN 55____.

The City and Contractor agree as follows:

1. *Scope of Work/Proposal.* The Contractor agrees to remodel the home located at 3790 McKnight Road subject to **Exhibit "A" (the Contractor's Proposal)**. However, the terms of this agreement shall take precedence over any provisions of the Contractor's Proposal and/or general conditions that conflict with this agreement.

It is expressly understood that the Contractor will provide materials and services to complete improvements contained in the Base Bid and the following alternates:

_____ as set forth in the **Plans and Specifications drawn by Rust Architects dated February 10, 2011 (Exhibit "B")** for a total contract sum of \$ _____.

It is further understood that the contractor will cooperate with other suppliers, installers, agencies and marketing efforts as outlined in the **Bid Document (Exhibit C)** including but not limited to the sprinkler fitters union (contributed labor) and landscapers retained by the City for improvements associated with this project but not included in this agreement.

Exhibits A, B and C collectively shall hereinafter be referred to as the "Scope of Work".

2. *Term.* The term of this Agreement shall be from _____, 2011 through _____, 2011, the date of signature by the parties notwithstanding. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.
3. *Compensation for Services.*
 - A. Any changes in the Scope of Work which may result in an increase in compensation due the Contractor shall require prior written approval by an authorized representative of the City or by the HRA. The City will not pay additional compensation for services that do not have prior written authorization.

- B. Subcontractors may be utilized by the Contractor when authorized in writing by the City. The Contractor shall provide the City with a list of subcontractors for approval prior to the execution of this agreement.
4. *City Information.* The City agrees to provide the Contractor with complete and accurate information concerning the Scope of Work and to perform the following services:
- A. Access to the Home. As may be necessary, the City shall provide access to and make all provisions for the Contractor to enter the home as required for the Contractor to perform such services necessary to complete the Scope of Work.
 - B. Consideration of the Contractor's Work. The City shall give thorough consideration to all reports, sketches, estimates, drawings, and other documents presented by the Contractor, and shall inform the Contractor of all decisions required of City within a reasonable time so as not to delay the work of the Contractor.
 - C. Standards. The City shall furnish the Contractor with a copy of any standard or criteria, including but not limited to, design and construction standards that may be required in the preparation of the Scope of Work.
 - D. Owner's Representative. The City's Building Official shall be appointed to act as the City's representative with respect to the work to be performed under this Agreement. The Building Official shall have complete authority to transmit instructions, receive information, interpret, and define the City's policy and decisions with respect to the services provided or materials, equipment, elements and systems pertinent to the Scope of Work covered by this Agreement.
5. *Method of Payment.* The Contractor shall submit to the City an itemized invoice for materials and services performed under this Agreement as set forth in the Contractor's Proposal except as provided below. Invoices submitted shall be paid in the same manner as other claims made to the City, and shall be made within five working days.
- A. Progress Payment. City will pay the Contractor as specified on Exhibit A; however, 5% of the total contract sum shall be retained for payment by the City upon project completion and formal acceptance of the project by the City. Each invoice shall contain the City's project number _____ and a progress summary showing the original (or amended) amount of the budget under this agreement, current billing, past payments and unexpended balance of the budget. The summary shall also include a summary description of the work performed on the project to date and the work that has yet to be completed.

- B. **Suspended Work.** If any work performed by the Contractor is suspended in whole or in part by the City, the Contractor shall be paid for any services performed prior to receipt of written notice from the City of such suspension.
 - C. **Payments for Subcontractors.** The Contractor shall be reimbursed for the work of subcontractors, as described in Paragraph 3B. The Contractor shall require subcontractors to submit the same billing information required of the Contractor in Paragraph A of this section and shall provide a copy to the City.
 - D. **Claims.** To receive any payment on this Agreement, the invoice or bill must include the following signed and dated statement: "I declare under penalty of perjury that this account, claim, or demand is just and correct and that no part of it has been paid."
6. *Project Manager and Staffing.* The Contractor has designated _____ to serve as the Project Manager. The Project Manager shall be assisted by other staff members of the Contractor as necessary to facilitate the completion of the Work in accordance with the terms established herein.
7. *Standard of Care.* All Work performed pursuant to this Agreement shall be in accordance with the standard of care in Ramsey County, Minnesota for professional services of the like kind.
8. *Audit Disclosure.* Any reports, information, data, etc. given to, or prepared or assembled by the Contractor under this Agreement which the City requests to be kept confidential, shall not be made available to any individual or organization without the City's prior written approval. The books, records, documents and accounting procedures and practices of the Contractor or other parties relevant to this Agreement are subject to examination by the City and either the Legislative Auditor or the State Auditor for a period of six (6) years after the effective date of this Contract. The Contractor shall at all times abide by Minn. Stat. 13.01 et seq., the Minnesota Government Data Practices Act, to the extent the Act is applicable to data and documents in the possession of the Contractor. The Contractor shall immediately inform the City if the Contractor receives a request for information under the Data Practices Act. The City will cooperate with the Contractor in responding to the request for information.
9. *Termination.* This Agreement may be terminated by either party by thirty (30) days written notice delivered to the other party at the address written above. Upon termination under this provision, if there is no fault of the Contractor, the Contractor shall be paid for services rendered and reimbursable expenses until the effective date of termination. If however, the City terminates the Agreement because the Contractor has failed to perform in accordance with this Agreement, no further payment shall be made to the Contractor, and the City may retain another contractor to undertake or complete the work identified in Paragraph 1.

10. *Subcontractor.* The Contractor shall not enter into subcontracts for services provided under this Agreement except as noted in Section 3B. The Contractor shall pay any subcontractor involved in the performance of this Agreement within the ten (10) days of the Contractor's receipt of payment by the City for undisputed services provided by the subcontractor. If the Contractor fails within that time to pay the subcontractor any undisputed amount for which the Contractor has received payment by the City, the Contractor shall pay interest to the subcontractor on the unpaid amount at the rate of 1.5 percent per month or any part of a month. The Contractor shall indemnify and defend the City from any and all claims made by the Subcontractor for work performed for Contractor, including but not limited to, claims made that result in any mechanics' lien on the property.
11. *Independent Contractor.* At all times and for all purposes herein, the Contractor is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Contractor an employee of the City.
12. *Non-Discrimination.* During the performance of this Agreement, the Contractor shall not discriminate against any employee or applicants for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age. The Contractor further agrees to comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363.01, et. seq., Title VI of the Civil Rights Act of 1964, and the American with Disabilities Act of 1990.
13. *Assignment.* Neither party shall assign this Agreement, nor any interest arising herein, without the written consent of the other party.
14. *Services Not Provided For.* No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.
15. *Severability.* The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.
16. *Entire Agreement.* The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by both parties, unless otherwise provided herein.
17. *Compliance with Laws and Regulations.* In providing services hereunder, the Contractor shall abide by statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided. The Contractor and City, together with their respective agents and employees, agree to abide by the provisions of the Minnesota Data Practices Act, Minnesota Statutes Section 13, as amended, and

Minnesota Rules promulgated pursuant to Chapter 13. Any violation of statutes, ordinances, rules and regulations pertaining to the services to be provided shall constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.

18. *Waiver.* Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.

19. *Indemnification.* Contractor agrees to defend, indemnify and hold the City, its officers, and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from a negligent act or omission (including without limitation professional errors or omissions) of the Contractor, its agents, employees, or subcontractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of said Contractor fully to perform, in any respect, all obligations under this Agreement.

20. *Insurance.*

A. *General Liability.* Prior to starting work, the Contractor shall procure, maintain and pay for such insurance as will protect against claims for bodily injury or death, or for damage to property, including loss of use, which may arise out of operations by the Contractor or by any subcontractor or by anyone employed by any of them or by anyone for whose acts any of them may be liable. Such insurance shall include, but not be limited to, minimum coverages and limits of liability specified in Paragraph B below, or required by law. The policy(ies) shall name the City as an additional insured for the services provided under this Agreement and shall provide that the Contractor's coverage shall be primary and non-contributory in the event of a loss.

B. Contractor shall procure and maintain the following minimum insurance coverage limits of liability on this Project:

Worker's Compensation	Statutory Limits
Employer's Liability	\$500,000 each accident \$500,000 disease policy limit \$500,000 disease each employee
Comprehensive Liability	\$1,000,000 property damage per occurrence \$2,000,000 general aggregate \$2,000,000 Products - Completed Operations Aggregate \$100,000 fire legal liability each occurrence \$5,000 medical expense

Comprehensive
Automobile Liability \$1,000,000 combined single limit (shall include coverage
for all owned, hired and non-owned vehicles.

C. The Comprehensive General/Commercial General Liability policy(ies) shall be equivalent in coverage to ISO form CG 0001, and shall include the following:

- a. Premises and Operations coverage with no explosions, collapse, or underground damage exclusion (XCU).
- b. Products and Completed Operations Property Damage coverage. Contractor agrees to maintain this coverage for a minimum of two (2) years following completion of its work.
- c. Personal injury with Employment Exclusion (if any) deleted.
- d. Broad Form CGOOOI 0196 Contractual Liability coverage, or its equivalent.
- e. Broad Form Property Damage coverage, including completed operations, or its equivalent.
- f. Additional Insured Endorsement(s), naming the "City of White Bear Lake" as an Additional Insured, on ISO form CG 20 10 11 85, or CG 20 10 10 01 and CG 20 37 10 01, or an endorsement(s) providing equivalent coverage to the Additional Insureds. ISO form CG 20 10 07 04, and later versions of said form, are not acceptable.
- g. "Stop gap" coverage for work in those states where Workers' Compensation insurance is provided through a state fund if Employer's liability coverage is not available.
- h. Severability of Insureds provision.

D. Contractor shall maintain in effect all insurance coverages required under this Section at Contractor's sole expense and with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by City in writing. In addition to the requirements stated above, the following applies to the insurance policies required under this Agreement:

- a. All policies, except the Professional Liability Insurance policy, shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable);
- b. All policies, except the Professional Liability Insurance policy, shall be applied on a "per project" basis;

- c. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall contain a waiver of subrogation naming "the City of White Bear Lake";
- d. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall name "the City of White Bear Lake" as an additional insured;
- e. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall insure the defense and indemnity obligations assumed by Contractor under this Agreement; and
- f. All policies shall contain a provision that coverages afforded there under shall not be canceled or non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the City.

A copy of the Contractor's insurance declaration page, Rider and/or Endorsement, as applicable, which evidences the compliance with this Paragraph 20, must be filed with City prior to the start of Contractor's Work. Such documents evidencing Insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Contractor has complied with all insurance requirements. Renewal certificates shall be provided to City prior to the expiration date of any of the required policies. City will not be obligated, however, to review such declaration page, Rider, Endorsement or certificates or other evidence of insurance, or to advise Contractor of any deficiencies in such documents and receipt thereof shall not relieve Contractor from, nor be deemed a waiver of, City's right to enforce the terms of Contractor's obligations hereunder. City reserves the right to examine any policy provided for under this paragraph.

- E. **Effect of Contractor's Failure to Provide Insurance.** If Contractor fails to provide the specified insurance, then Contractor will defend, indemnify and hold harmless the City, the City's officials, agents and employees from any loss, claim, liability and expense (including reasonable attorney's fees and expenses of litigation) to the extent necessary to afford the same protection as would have been provided by the specified insurance. Except to the extent prohibited by law, this indemnity applies regardless of any strict liability or negligence attributable to the City (including sole negligence) and regardless of the extent to which the underlying occurrence (i.e., the event giving rise to a claim which would have been covered by the specified insurance) is attributable to the negligent or otherwise wrongful act or omission (including breach of contract) of Contractor, its subcontractors, agents, employees or delegates. Contractor agrees that this indemnity shall be construed and applied in favor of indemnification. Contractor also agrees that if applicable law limits or

precludes any aspect of this indemnity, then the indemnity will be considered limited only to the extent necessary to comply with that applicable law. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity, the City may require Contractor to:

- a. Furnish and pay for a surety bond, satisfactory to the City, guaranteeing performance of the indemnity obligation; or
- b. Furnish a written acceptance of tender of defense and indemnity from Contractor's insurance company.

Contractor will take the action required by the City within fifteen (15) days of receiving notice from the City.

21. *Ownership of Documents.* All plans, diagrams, analyses, reports and information generated in connection with the performance of this Agreement ("Information") shall become the property of the City, but Contractor may retain copies of such documents as records of the services provided. The City may use the Information for its purposes and the Contractor also may use the Information for its purposes. Use of the Information for the purposes of the project contemplated by this Agreement ("Project") does not relieve any liability on the part of the Contractor, but any use of the Information by the City or the Contractor beyond the scope of the Project is without liability to the other, and the party using the information agrees to defend and indemnify the other from any claims or liability resulting there from.
22. *Dispute Resolution/Mediation.* Each dispute, claim or controversy arising from or related to this Service Agreement or the relationships which result from this Agreement shall be subject to mediation as a condition precedent to initiating arbitration or legal or equitable actions by either party. Mediation shall be held in the City of White Bear Lake unless another location is mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a Mediated Settlement Agreement, which shall be enforceable as a settlement in any court having jurisdiction thereof.
23. *Governing Law.* This Agreement shall be controlled by the laws of the State of Minnesota.
24. *Conflicts.* No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this Contract. The violation of this provision renders the Contract void. Any federal regulations and applicable state statutes shall not be violated.
25. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

Executed as of the day and year first written above.

**THE HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
WHITE BEAR LAKE**

By: _____
Bryan Belisle, Chair

By: _____
Mark Sather, Executive Director

APPROVED AS TO FORM:

Roger Jensen, City Attorney

[NAME OF CONTRACTOR BSN].

By: _____

Its: _____

By signing above, the official of the Contractor certifies that he/she is duly authorized to bind the Contractor to the terms of this agreement.