RESOLUTION NUMBER 03-075

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH DICK YORK'S AUTO SERVICE FOR THE PROVISION OF IMPOUND, STORAGE, TOWING AND SNOW RELOCATION OF VEHICLES FOR THE PERIOD OF DECEMBER 1, 2003 THROUGH NOVEMBER 30, 2004.

WHEREAS, the City of Ketchum wishes to contract with York for impound, storage, towing and snow relocation of vehicles, and York wishes to contract with the City of Ketchum to provide such services;

WHEREAS, York will provide impound, storage, towing and snow relocation of police impound vehicles under citation and direction of the Ketchum Police Department.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Ketchum, Idaho:

1. That the City Council of the City of Ketchum hereby finds that said Agreement is in the best interest of said City and the inhabitants thereof in order to protect and promote the public health, safety and welfare; and, that said Agreement is in accordance with and authorized by the laws of the State of Idaho.

2. The City Council of the City of Ketchum, Idaho, hereby authorizes and instructs the Mayor of said City to execute the Agreement with Dick York's Auto Service for the period of December 1, 2003 through November 30, 2004.

DATED this 15th day of December, 2003.

CITY OF KETCHUM

By_____
EDWARD SIMON
Mayor

ATTEST:

SANDRA E. CADY
City Clerk

AGREEMENT

THIS AGREEMENT made and entered into this ___ day of December, 2003 by and between the CITY OF KETCHUM, IDAHO, a municipal corporation (hereinafter referred to as "City"), and Dick York, individually and doing business as Dick York's Auto Service (hereinafter referred to as "York").

1. RECITALS. The City wishes to contract with York for towing, snow removal relocation, impound and storage of vehicles, and York wishes to contract with the City to provide such towing, snow removal relocation, impound and storage of vehicles.

2. TOWING AND STORAGE. York shall provide towing and storage of vehicles under citation and direction of the Ketchum Police Department on a twenty-four (24) hour, seven (7) day per week on-call basis for a term commencing on the 1st day of December, 2003 and terminating midnight November 30, 2004. York shall procure and maintain such personnel and equipment as is necessary to perform the services required hereunder.

3. IMPOUND VEHICLES. The only vehicles impounded under citation and direction of the Ketchum Police Department shall be police impound vehicles. All other vehicles impounded shall not be covered under any term of this Agreement except for Paragraph 5, hereinbelow, and for which York shall be solely responsible.

4. SNOW REMOVAL RELOCATION. Upon notification by the Ketchum Police Department, York shall provide tow truck for the relocation of vehicles in order to

remove snow from city streets. Upon notification, York shall respond with 15 to 20 minutes from the time of the call.

5. FEES.

Impound. Police impound vehicles shall be charged an impound fee of Ninety Dollars ($90.00) and a storage fee of Five Dollars ($5.00) per day pursuant to City of Ketchum Municipal Code, Chapter 10.08, Section 200, E and Resolution Number 730, which fee shall be collected by the City at the Ketchum Police Station and transferred to York.

Snow Relocation. City shall be charged $250.00 per hour per tow truck with a minimum of 2 hours. Anything over 2 hours shall be charged at $62.50 per 15 minute increments.

6. STORAGE PRIORITY. The City shall have space for the storage of up to three vehicles from the Ketchum Fire Department and all Police impound vehicles shall have storage priority at the lot leased by York from the City over vehicles impounded or stored by private parties, and it is the responsibility of York to remove such vehicles stored by private parties to maintain sufficient space in the impound lot for vehicles impounded by order of the Ketchum Police Department.

7. INDEMNITY AND INSURANCE. York agrees to hold and save the City harmless during the term of the Agreement from any and all claims, losses, or damages of any kind or nature, whatsoever arising out of the towing, storage and release of vehicles impounded under the terms of this Agreement. Further, York shall indemnify City of any and all claims or liability arising out of, or resulting from, this Agreement. Furthermore, York agrees to buy at his sole cost and expense, and to carry for the term of this Agreement, insurance in the following minimum amounts:

a. Bodily injury and property damage in the amount of Five Hundred

Thousand Dollars ($500,000);

b. Garage Keepers Legal Liability in the amount of at least Ten Thousand Dollars ($10,000) per vehicle.

The City shall be named as an additional insured on the above insurance. The City shall receive evidence of such insurance within fifteen (15) days of the date of execution of this Agreement.

8. WORKER'S COMPENSATION. York shall provide Workers' Compensation coverage to its employees.

9. EQUAL OPPORTUNITY EMPLOYER. York agrees that it shall not discriminate against any employee or applicant for employment on the basis of race, religion, national origin, age, gender, or disability.

10. CANCELLATION. Should one party default in performance of any promise, condition, or covenant herein, the other party shall have the right to cancel this Agreement upon fifteen (15) days written notice.

11. ATTORNEY'S FEES. Should either party default in performance of any promise, condition or covenant in this Agreement, said defaulting party shall pay all costs and expenses incurred, including reasonable attorney's fees, by the other party.

12. LAND LEASE. The parties hereto, having this day executed a Land Lease, do hereby agree that any termination of said Lease will constitute a termination of this Agreement. Notwithstanding the foregoing, the parties agree and understand that said land lease will be amended within the time period of the agreement.

13. DISCLAIMER. That there are no verbal promises, implied promises, representations, covenants, or warranties not set forth in writing in this Agreement, and no modification of this Agreement shall be binding unless evidenced in writing signed by the parties hereto.

14. ASSIGNMENT. This Agreement shall not be transferred, assigned or hypothecated by either party without the prior written consent of the other.

15. MISCELLANEOUS PROVISIONS.

a. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

b. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

c. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its rights to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

d. This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

e. This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matters.

f. This Agreement shall be construed in accordance with the laws of the State of Idaho.

g. 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 and the same instrument.

h. No presumption shall exist in favor of or against any party to this Agreement as a result of the drafting and preparation of the document.

i. No waiver of any breach by either party of the terms of this Agreement shall be deemed a waiver of any subsequent breach of the Agreement.

IN WITNESS WHEREOF, the parties hereto set their hand and seal the date first set forth hereinabove.

CITY OF KETCHUM, IDAHO,
a municipal corporation

DICK YORK, individually and
doing business as Dick York's
Auto Service

By EDWARD SIMON
Mayor

ATTEST:

SANDRA E. CADY
City Clerk

APPROVED AS TO FORM:

MARGARET J. SIMMS
City Attorney