

PUBLIC SAFETY COMMITTEE

11-0397R

RESOLUTION AUTHORIZING A SPONSORSHIP AGREEMENT WITH KERNZ AND KOMPANY, INC., AND DULUTH AIR AND AVIATION EXPO PURSUANT TO WHICH THE CITY AGREES TO PROVIDE IN-KIND SERVICES ALL RELATED TO THE DULUTH AIRSHOW.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a sponsorship agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. _____, with Kernz and Kompany, Inc., and Duluth Air and Aviation Expo (both hereinafter referred to as Kernz) pursuant to which the city will provide in-kind traffic control and police services with respect to the Duluth airshow.

Approved:



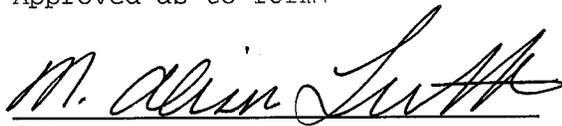
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

DPD/ATTY JMC:dma 07/18/2011

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize a sponsorship agreement with Kernz pursuant to which the city of Duluth agrees to provide in-kind traffic control and police services with regard to the Duluth Airshow which will occur on Saturday and Sunday, September 22 and 23, 2012. The city will be promoted as a partner of the Airshow; there will be no charge to Kernz. The cost of the in-kind traffic control services is estimated at \$2,882 while the cost of the in-kind police services is estimated at \$13,065.

SPONSORSHIP AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2011, by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota (the City); KERNZ & KOMPANY, INC., a corporation under the laws of the State of Minnesota, and DULUTH AIR & AVIATION EXPO, jointly and severally, each of which are hereinafter referred to as Kernz.

WHEREAS, on September 2, 2009, the Duluth Airport Authority (the Authority) and Kernz entered into an Agreement pursuant to which Kernz is promoting a major air show and exhibition at the Duluth International Airport on September 22 and 23, 2012 (the Airshow); and

WHEREAS, pursuant to the terms of the Agreement, Kernz is required to secure commitments for the services of peace officers; and

WHEREAS, Kernz desires to utilize City Police Officers for this purpose and the City desires to cooperate with Kernz under the terms and conditions of this Agreement; and

WHEREAS, Kernz further desires to utilize City Public Works workers, materials and equipment relating to traffic control services for the Airshow; and

WHEREAS, the City finds that the public purpose of this Agreement is public protection and safety.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

TRAFFIC CONTROL SERVICES

The City hereby agrees to provide traffic control services for the Airshow which services include the provision of one hundred and fifty "No Parking" signs as well as labor and equipment for the placement and removal of the "No Parking" signs, Type I Barricades and Traffic Cones. The City agrees to place the "No Parking" signs, Type I Barricades and Traffic Cones on Friday, September 21, 2012 and to remove them following the Airshow on Sunday, September 23, 2012. The City agrees to provide, at no cost to Kernz, the

labor, equipment and materials for traffic control for the Airshow in the estimated amount of Two Thousand Eight Hundred Eighty-two and 50/100ths (\$2,882.50) Dollars.

PEACE OFFICER SERVICES

The City hereby agrees to provide, at no cost to Kernz, the Peace Officer services set forth in the Duluth Police Special Event Estimated Cost Sheet attached hereto as Exhibit A in the estimated amount of Thirteen Thousand Sixty-five and No/100ths (\$13,065.00) Dollars.

IN KIND PAYMENT FOR TRAFFIC CONTROL AND POLICE SERVICES

1. In exchange for the services provided by the City, Kernz agrees that City shall appear in Kernz's publications, promotional ads and whenever possible, in live presentations and promotions.
2. The City shall be tagged on rotational in-market radio spots in conjunction with the Airshow. These 60 second spots will run on five different radio stations in various time-slots leading up to the Airshow.
3. The City logo shall be featured in the award winning Airshow brochure which will be distributed throughout Minnesota. The brochure provides information on the performers, parking, static displays and all pertinent Airshow information.
4. The City of Duluth name shall be featured on the partner page of the Airshow web site at www.duluthairshow.com. The City logo shall be a prominent feature on the main page with direct linking access to the City's web site. The Airshow web site receives over 40,000 visits per month.
5. The City logo shall appear in the Duluth Airshow newsletter which is mailed out to more than 1,000 businesses and 10,000 households. The City logo shall also be displayed on the ticket gate signage at the Duluth Airshow.
6. The City shall be announced four times daily over the PA system as a partner of the Airshow.
7. The City shall be granted permission to use the Airshow logo and the wording "Gold Level Partner" on all stationary and promotional materials, and product advertising throughout the contract period.

8. The City will be invited to participate and speak at some of the event functions including the Press Conference, Airshow Welcome Gala, and during the Duluth Airshow.

CONTRACT PERIOD

The term of this Agreement shall commence upon the execution of this Agreement and shall continue until all obligations of the parties hereunder have been fulfilled.

INDEPENDENT CONTRACTOR

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting Kernz as an agent, representative or employee of the City for any purpose or in any manner whatsoever. Kernz shall control its own means and manner of performance of services under this Agreement. Kernz shall not be considered an employee of the City, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of Kernz while so engaged, and any and all claims whatsoever on behalf of Kernz arising out of employment shall in no way be the responsibility of the City. Kernz shall not be entitled to any compensation or rights or benefits of any kind whatsoever from the City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability or severance pay and PERA. Further, the City shall in no way be responsible to defend, indemnify or save harmless Kernz from liability or judgments arising out of the intentional or negligent acts or omissions of Kernz while performing the work specified by this Agreement.

INDEMNITY

Kernz agrees that it shall defend, indemnify and save harmless the City and its officers, agents, servants and employees from any and all claims including claims for contribution or indemnity, demands, suits, judgments, costs and expenses asserted by any person or persons including agents or employees of the City or Kernz by reason of death or injury to person or persons or the loss or damage to property or any other cause of action arising out of, or by reason of, any act, omission, operation or work of Kernz or its employees while engaged in the execution or performance of services under this

Agreement. On ten days' written notice from the City, Kernz will appear and defend all lawsuits against the City growing out of such injuries or damages.

TERMINATION OF AGREEMENT

The City or Kernz may, upon seven days' written notice, terminate this Agreement in whole or in part with or without cause.

REPORTS AND INFORMATION

Records shall be maintained by Kernz in accordance with requirements prescribed by the City with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six years after completion of this Agreement. Kernz shall be responsible for furnishing to the City records, data and information as the City may require pertaining to matters covered by this Agreement.

NONDISCRIMINATION

Kernz agrees to comply in all respects with all federal, state and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter promulgated pertaining to unlawful discrimination.

RULES AND REGULATIONS

Kernz agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota, and the City of Duluth, and their respective agencies which are applicable to its activities under this Agreement.

NOTICES

Notice to the City or Kernz provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time:

CITY:	The City of Duluth 410 City Hall 411 West First Street Duluth, MN 55802
KERNZ:	Kernz & Kompany, Inc. 2110 West First Street Duluth, MN 55806

DULUTH AIR & AVIATION EXPO:

Duluth Air & Aviation Expo
2110 West First Street
Duluth, MN 55806

APPLICABLE LAW

This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

AMENDMENTS

Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original Agreement or their successors in office.

WAIVER

Any waiver by any party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision

ENTIRE AGREEMENT

This Agreement, including all attachments, constitutes the entire Agreement between the City and Kernz and supersedes all prior written or oral agreements and negotiations between the parties relating to the subject matter hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first shown above.

CITY OF DULUTH

KERNZ & KOMPANY, INC.

Mayor

Its _____

ATTEST:

DULUTH AIR & AVIATION EXPO

City Clerk

Its _____

APPROVED AS TO FORM:

Assistant City Attorney

COUNTERSIGNED:

City Auditor

THIS INSTRUMENT WAS DRAFTED BY
Joan M. Christensen
Assistant City Attorney
402 City Hall
Duluth, MN 55802