



**CITY OF KETCHUM, IDAHO**  
REGULAR CITY COUNCIL MEETING  
Thursday, November 18, 2021, 4:00 PM  
191 5th Street W., Ketchum, Idaho

---

### Amended Agenda

#### **PUBLIC PARTICIPATION INFORMATION**

Public information on this meeting is posted outside City Hall.

**We welcome you to watch Council Meetings via live stream.**

You will find this option on our website at [www.ketchumidaho.org/meetings](http://www.ketchumidaho.org/meetings).

**If you would like to comment on a public hearing agenda item, please select the best option for your participation:**

1. Join us via Zoom (*please mute your device until called upon*).

**Join the Webinar:**

<https://ketchumidaho-org.zoom.us/j/84797820128?pwd=b095K0xCcWZaelFuYlRvS1lKb0RhZz09>

Passcode: 549841

**Telephone ONLY:**

1-253-215-8782

Webinar ID: 847 9782 0128

2. Address the Council in person at City Hall (*masks are required in Council Chambers and seating has been arranged per the required social distance of 6'*).
3. Submit your comments in writing at [participate@ketchumidaho.org](mailto:participate@ketchumidaho.org) (*by noon the day of the meeting*).

*This agenda is subject to revisions. Item #10 was removed from the original posting.*

---

**CALL TO ORDER:** By Mayor Neil Bradshaw

**ROLL CALL:**

**COMMUNICATIONS FROM MAYOR AND COUNCILORS:**

**CONSENT AGENDA:**

HYPERLINK "appIS26659f62dab643c7af3d10c45aeb4ab9" *Note re: ALL ACTION ITEMS - The Council is asked to approve the following listed items by a single vote, except for any items that a Councilmember asks to be removed from the Consent Agenda and considered separately.*

1. [ACTION ITEM: Approve minutes of November 1, 2021, as submitted by Tara Fenwick, City Clerk.](#)

2. [ACTION ITEM: Recommendation to receive and file the Treasurer's financial reports, as submitted by Shellie Rubel, Treasurer.](#)
  3. [ACTION ITEM: Authorization and approval of the payroll register, as submitted by Shellie Rubel, Treasurer.](#)
  4. [ACTION ITEM: Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills in a total sum of \\$ 459,811.07, as submitted by Shellie Rubel, Treasurer.](#)
  5. [ACTION ITEM: Recommendation to Approve Alcohol Beverage License, as submitted by Deputy Treasurer, Genoa Beiser.](#)
  6. [ACTION ITEM: Recommendation to approve P.O. 22031, to purchase meter vaults for Utilities District, as submitted by Gio Tognoni.](#)
  7. [ACTION ITEM: Recommendation to approve P.O. 22032, to purchase a Ford Pickup for Fire Department, as submitted by Bill McLaughlin.](#)
  8. [ACTION ITEM: Recommendation to approve Contract 22029 with Friends of the Sawtooth Avalanche Center, as submitted by City Administrator, Jade Riley.](#)
  9. [ACTION ITEM: Recommendation to approve Contract 22028 with Idaho Dark Skies, as submitted by City Administrator, Jade Riley.](#)
  10. [ACTION ITEM: Recommendation to approve Interlocal Agreement #22030 with County for GIS, as submitted by City Administrator, Jade Riley.](#)
  11. [ACTION ITEM: Recommendation to approve Amendment No. 2 to Option to Lease #20373 with Ketchum Community Development Corporation \(KCDC\), as submitted by City Administrator, Jade Riley.](#)
  12. [ACTION ITEM: Recommendation to approve Encroachment Agreement #22747 with Cox Communications, for 510 River Street, as submitted by Suzanne Frick, Director, Planning and Building.](#)
  13. [ACTION ITEM: Recommendation to approve Paver Driveway Encroachment Agreement #22748, for 221 Sage Road, as submitted by Suzanne Frick, Director, Planning and Building.](#)
  14. [ACTION ITEM: Recommendation to approve Agreement #22749 between the City of Ketchum and Ketchum Urban Renewal Agency for reimbursement of city staffing and support, as submitted by Suzanne Frick, Director, Planning and Building.](#)
  15. [ACTION ITEM: Recommendation to approve preliminary plat for 151 Topaz to subdivide Lot 2 of Block 1 of the Gen Street Subdivision, as submitted by Suzanne Frick, Director, Planning and Building.](#)
  16. [ACTION ITEM: Recommendation to approve final plat for 112 Rember Street, Lot 2 of the Bavarian Village Subdivision, as submitted by Suzanne Frick, Director, Planning and Building.](#)
- PUBLIC HEARING:**
17. [ACTION ITEM: Recommendation to Hold a Public Hearing and Approve the Smiles Subdivision Lot Line Shift Final Plat & Findings of Fact, Conclusions of Law, and Decision., as submitted by Suzanne Frick, Director, Planning and Building.](#)
  18. [ACTION ITEM: Recommendation to Conduct Public Hearing and Approve third reading of Ordinance #1227 – Amending KMC Section 15.20.060, Green Building Code for electric vehicle charging infrastructure, as submitted by Suzanne Frick, Director Planning and Building.](#)
  19. [ACTION ITEM: Recommendation to Conduct Public Hearing and Approve third reading of Ordinance #1228 – Clear Creek Franchise, as submitted by Jade Riley, City Administrator.](#)

20. [ACTION ITEM: Recommendation to Conduct Public Hearing and Approve the first, second and third reading of Ordinance #1229 - Amending FY21 Budget, as submitted by Shellie Rubel, Treasurer.](#)

**NEW BUSINESS: (no public comment required)**

21. [Update to Community Housing In-Lieu Fees, as submitted by Suzanne Frick, Director, Planning and Building.](#)
22. [Review DRAFT Short-term Rental Ordinance, as submitted by Jade Riley, City Administrator.](#)
23. [ACTION ITEM: Request for reconsideration Bluebird Village Community Housing Project, Design Review P21-063, as submitted by Matt Johnson, City Attorney.](#)
24. [ACTION ITEM: Recommendation to Approve Ground Lease Agreement #22750 for Bluebird Community Housing Project, as submitted by Jade Riley, City Administrator.](#)

**EXECUTIVE SESSION:**

**ADJOURNMENT:**



**CITY OF KETCHUM**  
**SPECIAL MEETING MINUTES OF THE CITY COUNCIL**  
Monday, November 1, 2021

---

**CALL TO ORDER:** *(00:30:30 in video)*

Mayor, Bradshaw called the meeting of Ketchum City Council to order at 4:00 p.m.

**Roll Call:**

Mayor Neil Bradshaw  
Courtney Hamilton  
Amanda Breen  
Jim Slanetz  
Michael David

**Also Present:**

Jade Riley – City Administrator  
Lisa Enourato - Public Affairs & Administrative Services Manager  
Tara Fenwick – City Clerk & Administrative Business Manager  
Shellie Rubel – City Treasurer  
Matt Johnson – Legal Counsel  
Suzanne Frick – Director, Planning and Building  
Morgan Landers - Senior Planner  
Jamie Shaw – Chief of Police  
Scott Fortner – Visit Sun Valley  
Mike Goitiandia – Clear Creek Disposal  
Greg Dunfield – GMD Development

**COMMUNICATIONS FROM MAYOR AND COUNCILORS:**

Amanda Breen, shared gratitude for staff and vendor partners to assist in setting up new technology for New City Hall. Additionally, Amanda asked that the Council discuss the care of vacant City lots.

Jim Slanetz, shared gratitude for staff and vendor partners who were instrumental in setting up new City Hall.

Michael David, called the Community to take care when driving. The city has suffered an increase in pedestrian accidents and fatalities.

Mayor, Neil Bradshaw, welcomed the Public back into physical presence and participation.

**CONSENT AGENDA:** *(00:35:30 in video).*

Councilor, Amanda Breen, asked that the following items be pulled - 1, 9, 11, 17. Councilor, Courtney Hamilton, asked that the following items be pulled - 3, 5, 7, 8, 16, 17, 18, 19.

Councilor's made comments and asked for clarification for items pulled. City Administrator, Jade Riley, Director Planning and Zoning, Suzanne Frick, Senior Planner, Morgan Landers and Police Chief, Jamie Shaw answered questions posed.

Additionally, Scott Fortner, Visit Sun Valley, and Lynn Barker, Sustainability Manager, answered Council questions.

Councilor, Amanda Breen, recused herself on item 11.

Councilor, Courtney Hamilton recused herself on items 17, 18, 19.

**Motion to approve consent agenda items 1 thru 16, excluding 11.**

**Motion made by Councilor, Jim Slanetz and seconded by Councilor, Courtney Hamilton. The motion passed. All in Favor.**

**Motion to approve consent agenda item 11.**

**Motion made by Councilor, Courtney Hamilton and seconded by Councilor, Jim Slanetz. The motion passed. All in Favor.**

**Motion to approve consent agenda item 17, 18, 19.**

**Motion made by Councilor, Amanda Breen and seconded by Councilor, Michael David. The motion passed. All in Favor.**

**PUBLIC HEARING:** *(01:07:50 in video).*

ACTION ITEM: Recommendation to approve Lot Line Shift and Findings of Fact, Conclusions of Law and Decision for the Buck Subdivision located at 1520 Warm Springs Road.

Mayor, Neil Bradshaw, asked for public comment.

No public comment was made.

**Motion to approve Lot Line Shift and Findings of Fact, Conclusions of Law and Decision for the Buck Subdivision located at 1520 Warm Springs Road. Motion made by Councilor, Courtney Hamilton, and seconded by Councilor, Michael David. The motion passed. All in Favor.**

ACTION ITEM: Recommendation to approve Lot Line Shift and Findings of Fact, Conclusions of Law and Decision for the Northwood Light Industrial Park located at 200 Northwood Way.

Mayor, Neil Bradshaw, asked for public comment.

No public comment was made.

**Motion to approve Lot Line Shift and Findings of Fact, Conclusions of Law and Decision for the Northwood Light Industrial Park located at 200 Northwood Way. Motion made by Councilor, Courtney Hamilton and seconded by Councilor, Michael David. The motion passed. All in Favor.**

ACTION ITEM: Recommendation to Conduct Public Hearing and Approve for third Reading Ordinance #1226 – Amending KMC Section 15-20, as submitted by Suzanne Frick, Director Planning and Building.

Mayor, Neil Bradshaw, asked for public comment.

Public Comment - Perry Boyle posed questions on the Ordinance.

Director, Planning and Zoning, Suzanne Frick clarified language and intent of the Ordinance and 4<sup>th</sup> floor designs. Council members discussed the Ordinance and gave staff direction to clarify set-back language.

**Motion to approve the third Reading of Ordinance #1226, by title only. Motion made by Councilor, Courtney Hamilton, and seconded by Councilor, Amanda Breen. The motion passed. All in Favor.**

City Clerk, Tara Fenwick, read the title of Ordinance 1226.

ACTION ITEM: Recommendation to Conduct Public Hearing and Approve second reading of Ordinance #1227 – Amending KMC Section 17.12.040, as submitted by Suzanne Frick, Director Planning and Building.

Mayor, Neil Bradshaw, asked for public comment.

No public comment was made.

Council directed staff to consider presenting additional Ordinances for established commercial / residential implementations. And, to continue providing the Community use of the one free electric charging station at the Ore Wagon Museum.

**Motion to conduct the second reading of Ordinance 1227, by title only. Motion made by Councilor, Jim Slanetz, and seconded by Councilor, Courtney Hamilton. The motion passed. All in Favor.**

City Clerk, Tara Fenwick, read the title of Ordinance 1227.

ACTION ITEM: Recommendation to Conduct Public Hearing and Approve second reading of Ordinance #1228 – Clear Creek Franchise, as submitted by Jade Riley, City Administrator.

Mayor, Neil Bradshaw, asked for public comment.

No public comment was made.

Councilors asked staff to provide an update on alternative or additional sites for community recycling. City Administrator, Jade Riley gave an update for alternative sites and recycling glass options.

**Motion to conduct the second reading of Ordinance 1228, by title only. Motion made by Councilor, Courtney Hamilton, and seconded by Councilor, Michael David. The motion passed. All in Favor.**

City Clerk, Tara Fenwick, read the title of Ordinance 1228.

**NEW BUSINESS:** *(no public comment required) (01:37:15 in video).*

City Administrator, Jade Riley, provided Council a presentation on Next steps on Short-Term Rental Regulations.

Mayor, Neil Bradshaw, allowed public comment.

Public Comment - Perry Boyle recommended considering how licenses will be charged and to consider how homeowner occupied can be exempt.
---

City Administrator, Jade Riley, provided a review of the Draft Ground Lease for Bluebird Community Housing Project.

Mayor, Neil Bradshaw, provided summary comments and allowed public comment.

Council discussed the item.

Director Planning and Zoning, Suzanne Frick, helped answer Council questions about ground floor office use space.

Public Comment - Gwen Raney would like more clarification on fair housing requirements and residents' preference for this housing.
--

Public Comment - Perry Boyle referenced addressing liability insurance set-up to change with time and commented on market rates and KCDC involvement.
---

**EXECUTIVE SESSION:**

None.

**ADJOURNMENT:**

**Motion to adjourn at 6:38 p.m. Motion made by Councilor, Courtney Hamilton, seconded by Councilor, Jim Slanetz. All in Favor.**

---

Mayor, Neil Bradshaw

---

City Clerk, Tara Fenwick





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Receive and File Treasurer's Monthly Financial Report**

#### Recommendation and Summary

Staff is recommending the council receive and file the Treasurer's monthly report in accordance with statutory requirements and adopt the following motion:

***"I move to receive and file the Treasurer's financial report."***

The reasons for the recommendation are as follows:

- State statute establishes requirements for monthly financial reports from the City Treasurer.

#### Introduction and History

Idaho State Statute 50-208 establishes requirements for monthly financial reports from the City Treasurer to the Council. The Statute provides that the Treasurer "render an accounting to the city council showing the financial condition of the treasury at the date of such accounting."

#### Analysis

Pursuant to the above statutory requirements, enclosed for Council review is a monthly financial report showing the financial condition of the City in the current fiscal year. This report, along with complete financial statements, is available on the City's website.

#### Sustainability Impact

There is no sustainability impact arising from this reporting.

#### Financial Impact

There is no financial impact arising from this reporting.

#### Attachments

- Attachment A: Monthly Financial Report Charts

FY 2022

## Monthly Financial Reports

As of October 31, 2021



This packet is divided into three sections: (1) General Fund charts (pages 3-7); (2) Original LOT charts (pages 8-13); (3) Enterprise Fund charts (pages 14-16); and Off-Street Parking Lot charts (pages 17-19).

Each chart includes information on current progress relative to the prior year and the current budget.

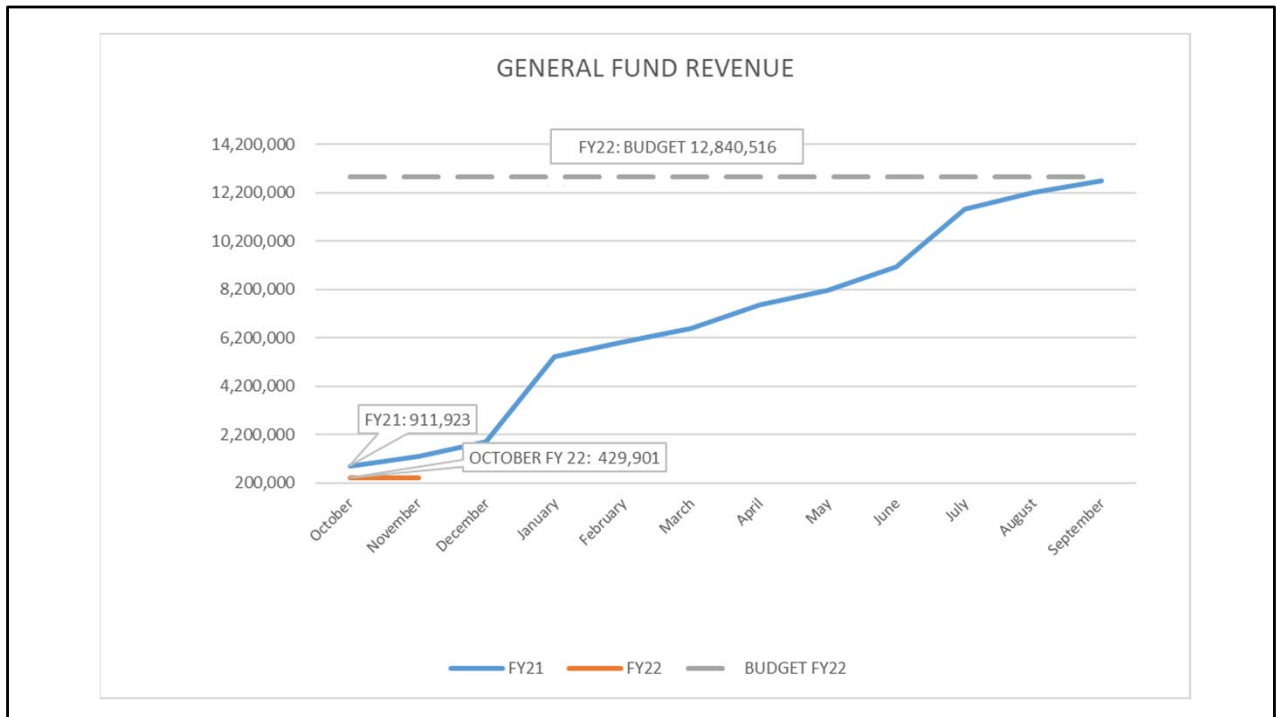
## Summary for October 31, 2021

GENERAL FUND		
1.	<b>REVENUES</b>	
	Approved Budget	12,840,516
	Year to Date (YTD)	429,901
2.	<b>EXPENDITURES</b>	
	Approved Budget	12,840,516
	Year to Date (YTD)	977,960
3.	Net Position	-

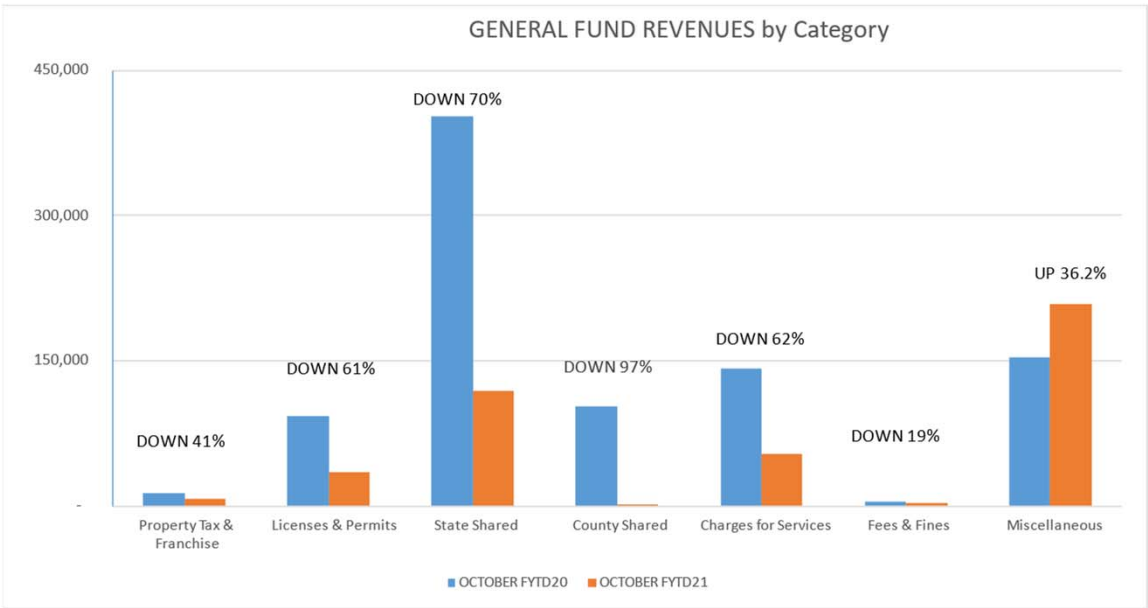
LOCAL OPTION TAX		
1.	<b>REVENUES</b>	
	Approved Budget	2,400,000
	Year to Date (YTD)	294,939
2.	<b>EXPENDITURES</b>	
	Approved Budget	2,400,000
	Year to Date (YTD)	161,146
3.	Net Position	-

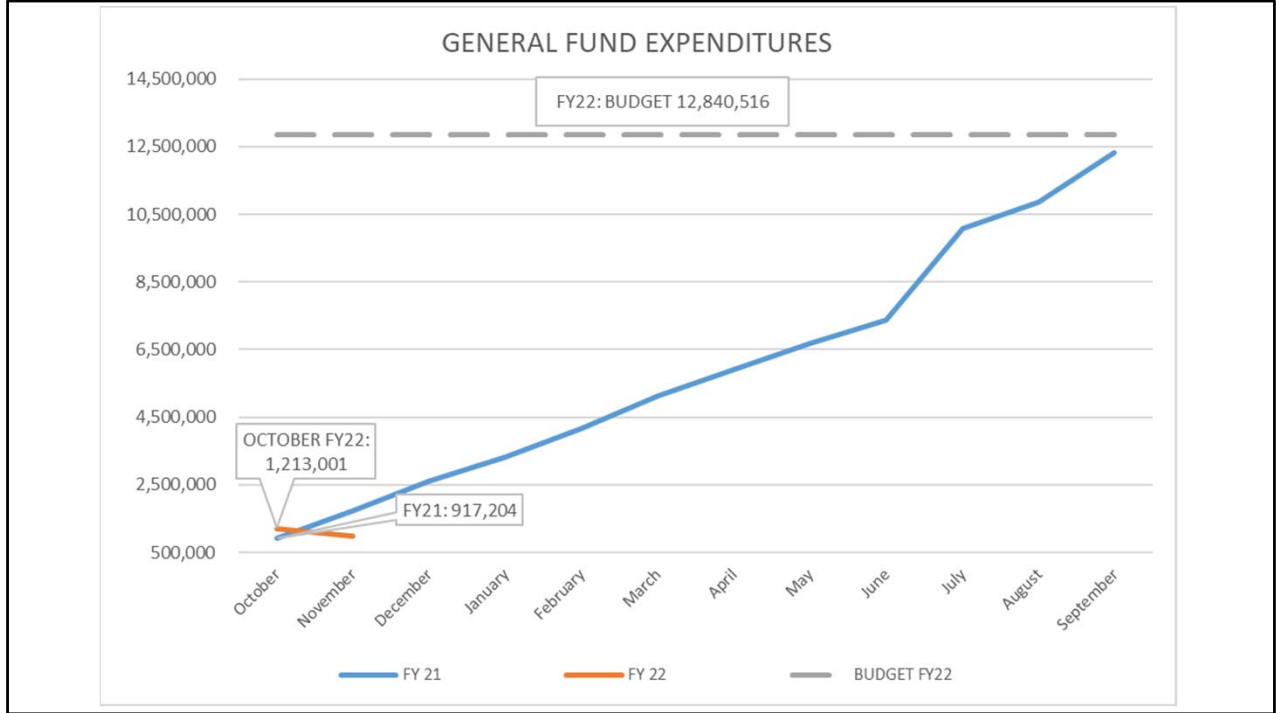
# General Fund

---

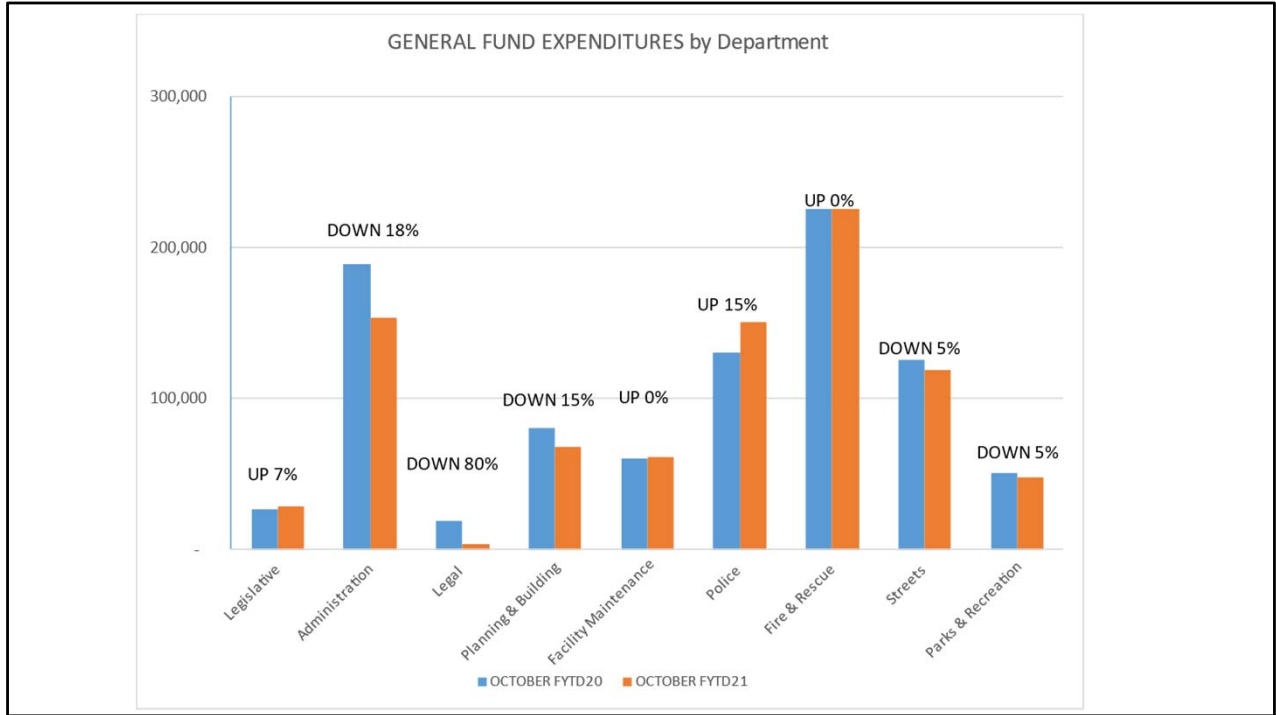


The General Fund revenues are down approximately \$482,022 (52%) in FYTD compared to FY2020. This decrease is largely due to timing of the receipts for Blaine County Ambulance and State Shared Revenue, the funds were received in November.





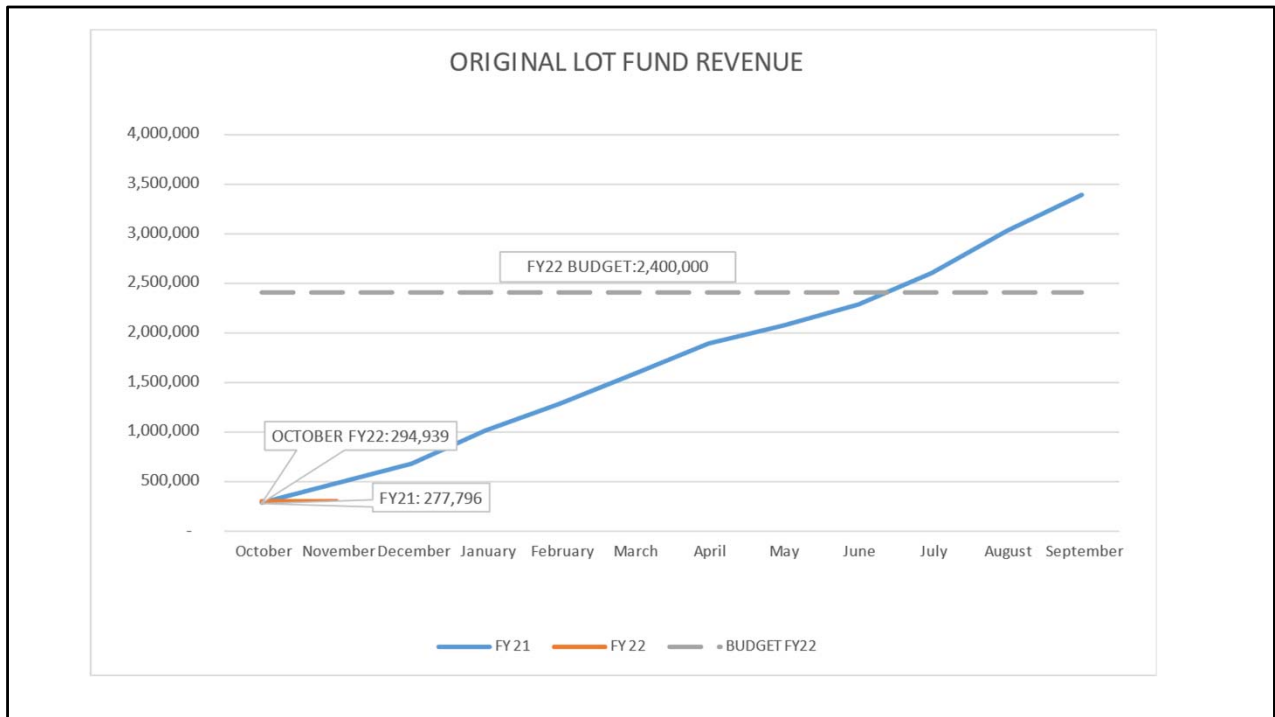
The General Fund expenditures are up \$295,797 (32%) FYTD. This increase is largely due to transfer of the ARPA funds to the Strategic Initiative Fund.



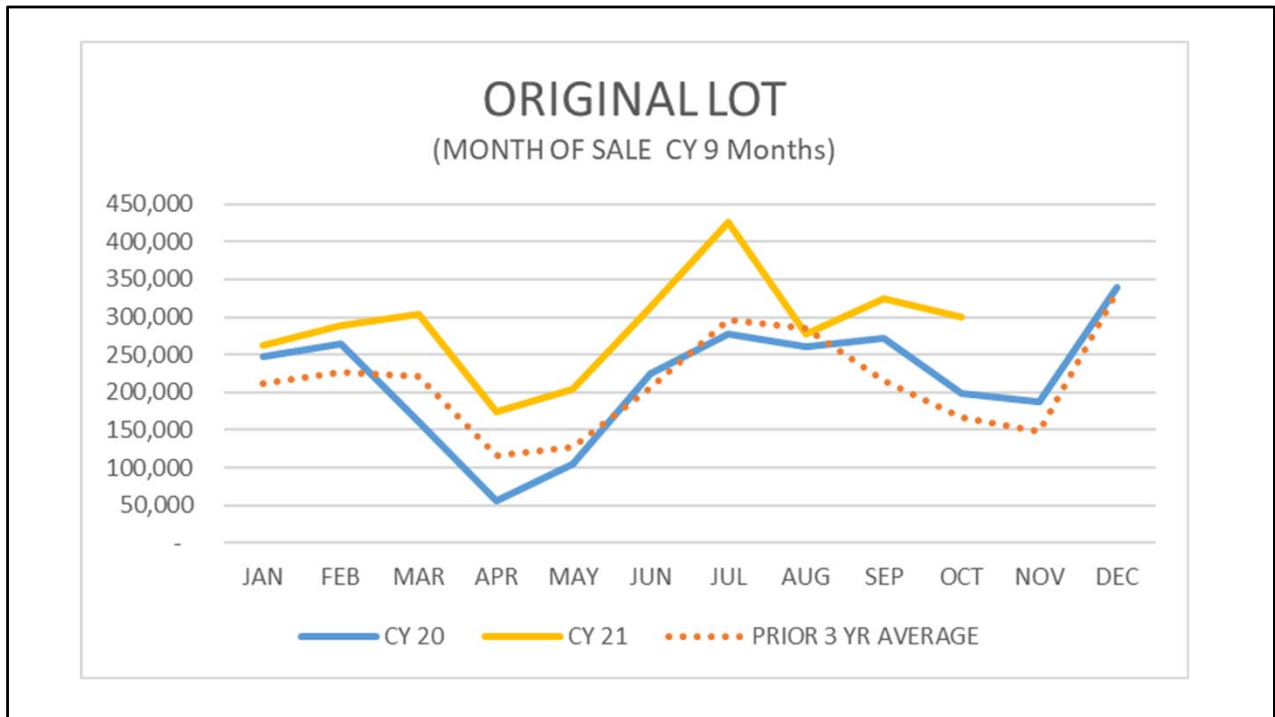


# LOT Analysis

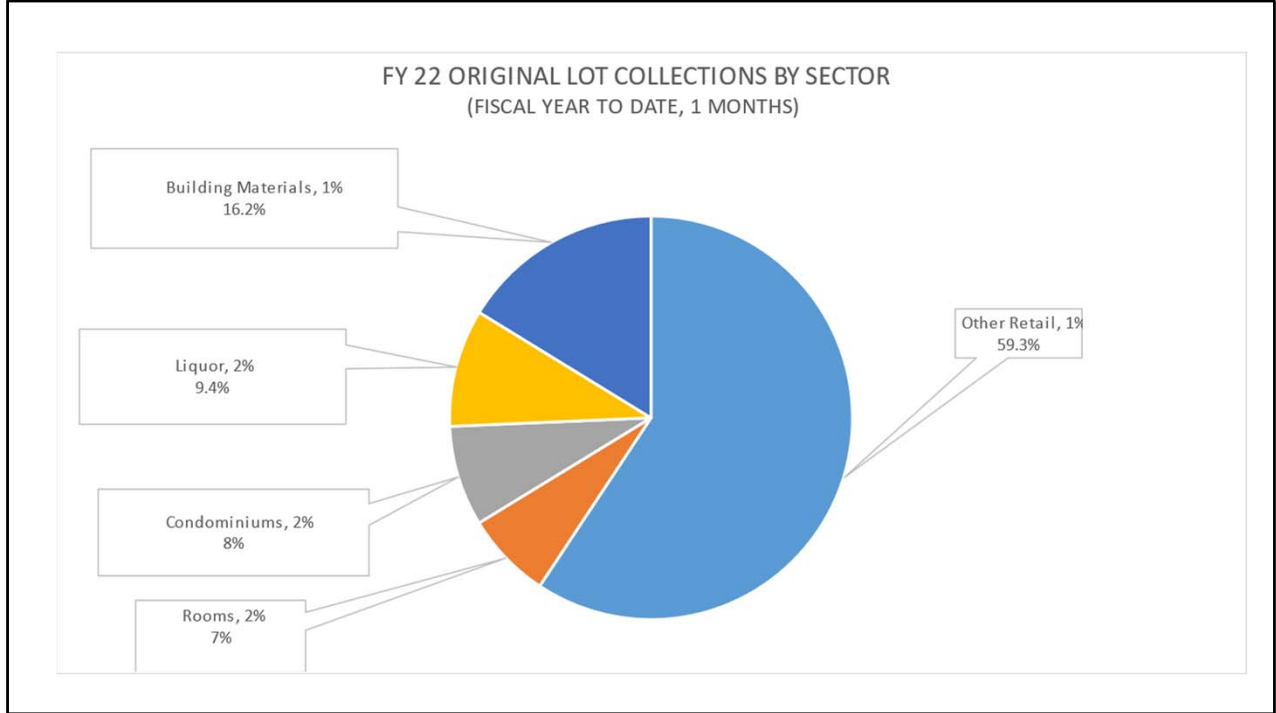
---



Revenue to the Original LOT Fund is up approximately \$17,143 (6%) FYTD. This increase is largely due to retail, condo and building material receipts.

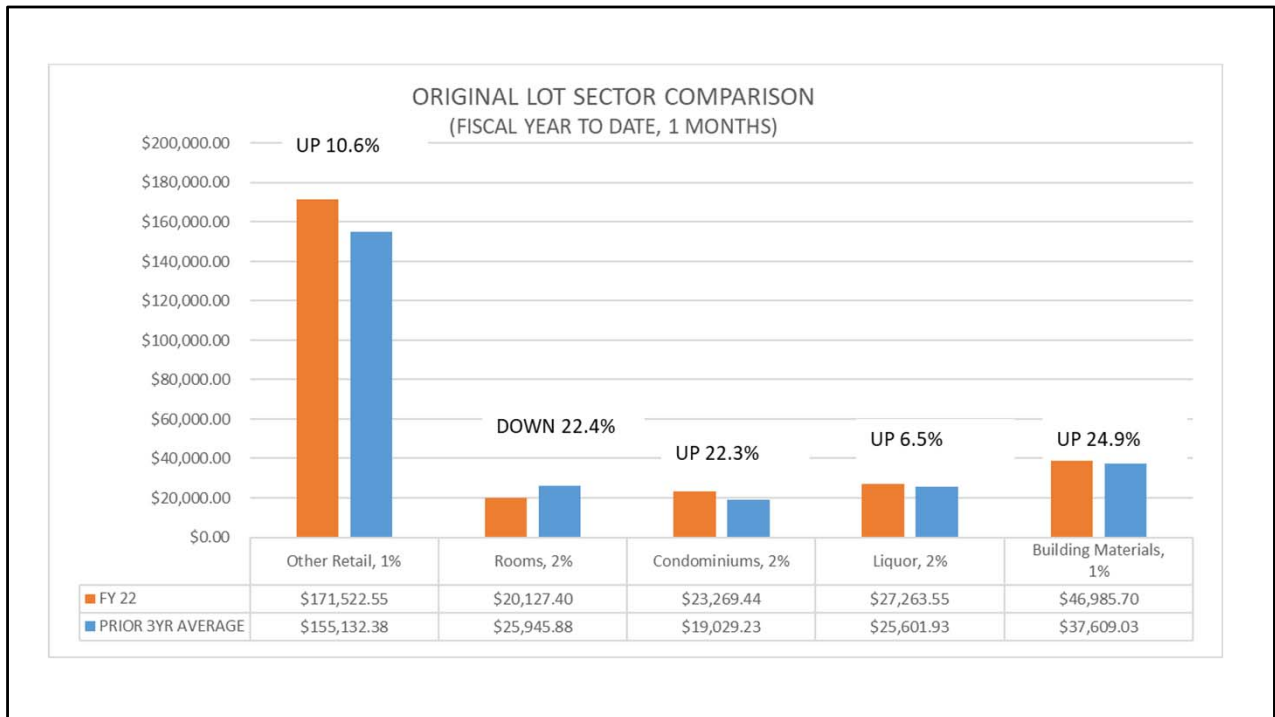


Original LOT for September month of sale are up approximately 34.2% compared to last year and up approximately 79% compared to the prior three-year average.



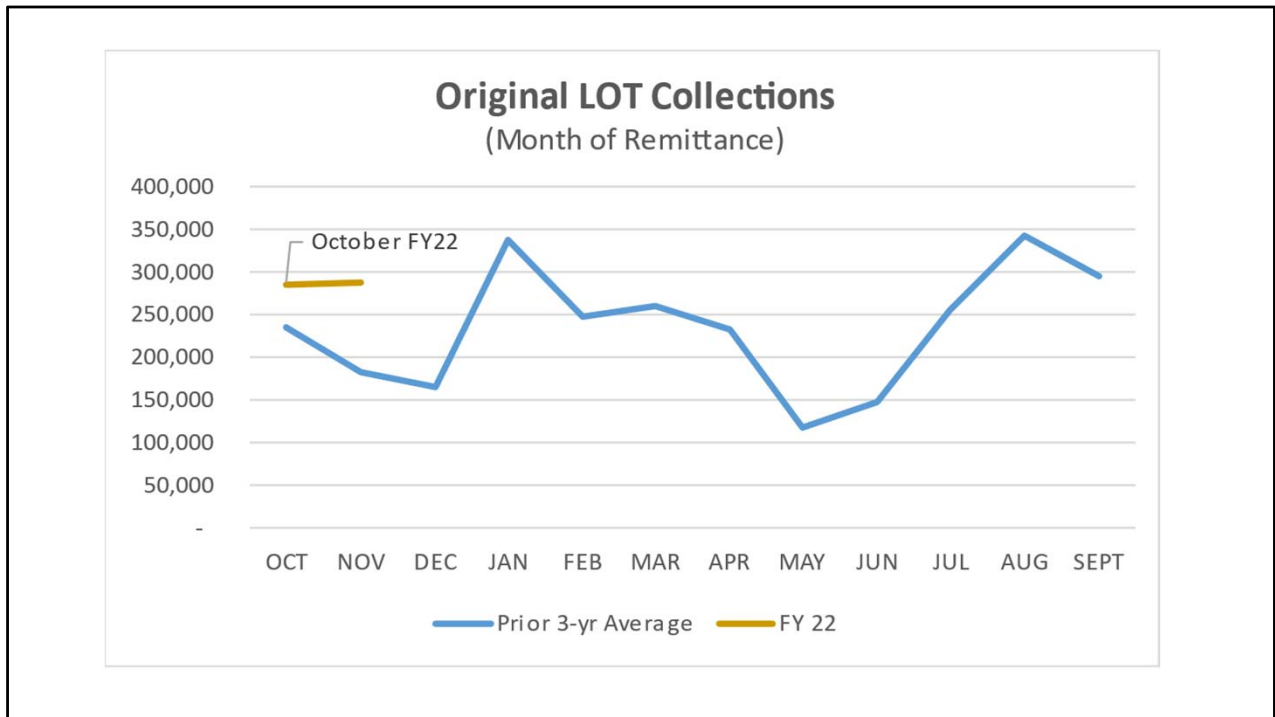
To date in FY 22 (1 months), Original LOT collections have been generated by each sector as follows:

1. Retail has generated 59.3% of the total.
2. Building Materials have generated 16.2%.
3. Liquor has generated 9.4%
4. Rooms have generated 7%.
5. Condominiums have generated 8%.



Through the first 1 months of FY 22, collections compared to the prior three-year average are as follows:

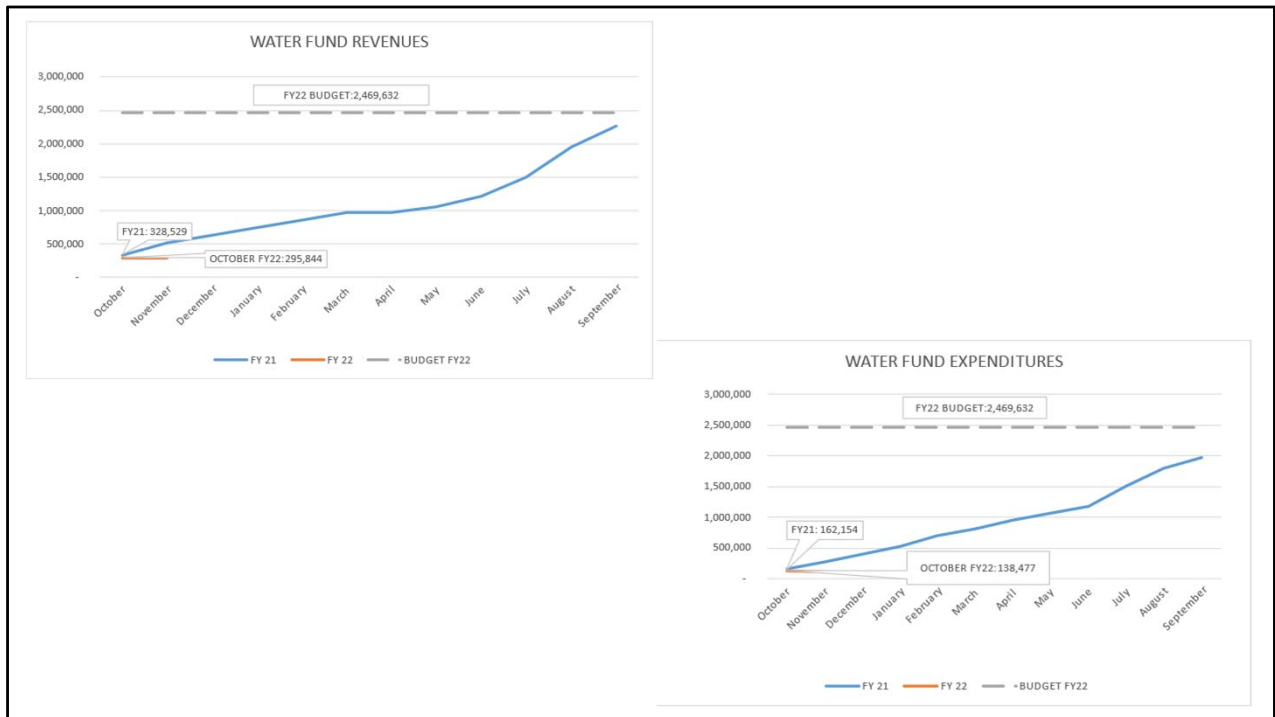
1. Retail is up 10.6%.
2. Rooms are up 22.4%.
3. Condominiums are up 22.3%
4. Liquor is up 6.5%.
5. Building Materials are up 24.9%.



Revenues from Original LOT covered sales are up approximately 32.5% compared to the average of the prior three years.

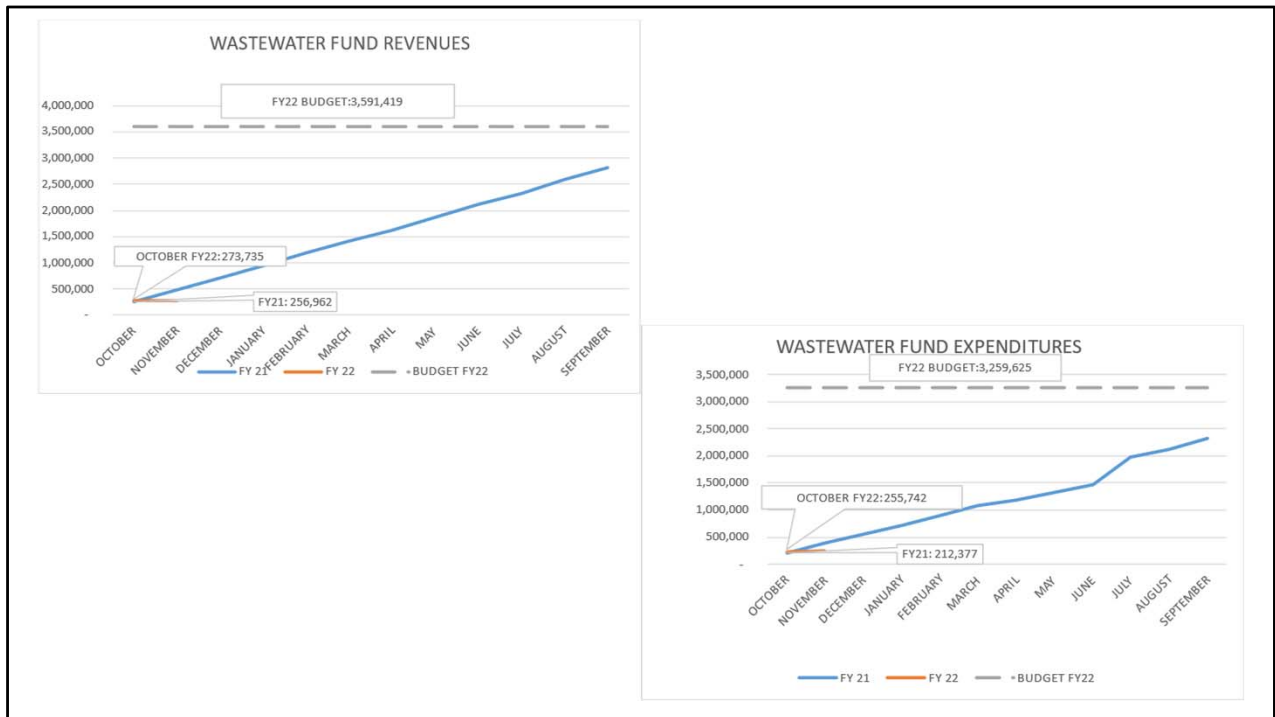
# Enterprise Funds

---



The Water Fund revenues are down \$32,685 (9%) FYTD.  
 The Water Fund expenditures are down \$23,677 (14%) FYTD.

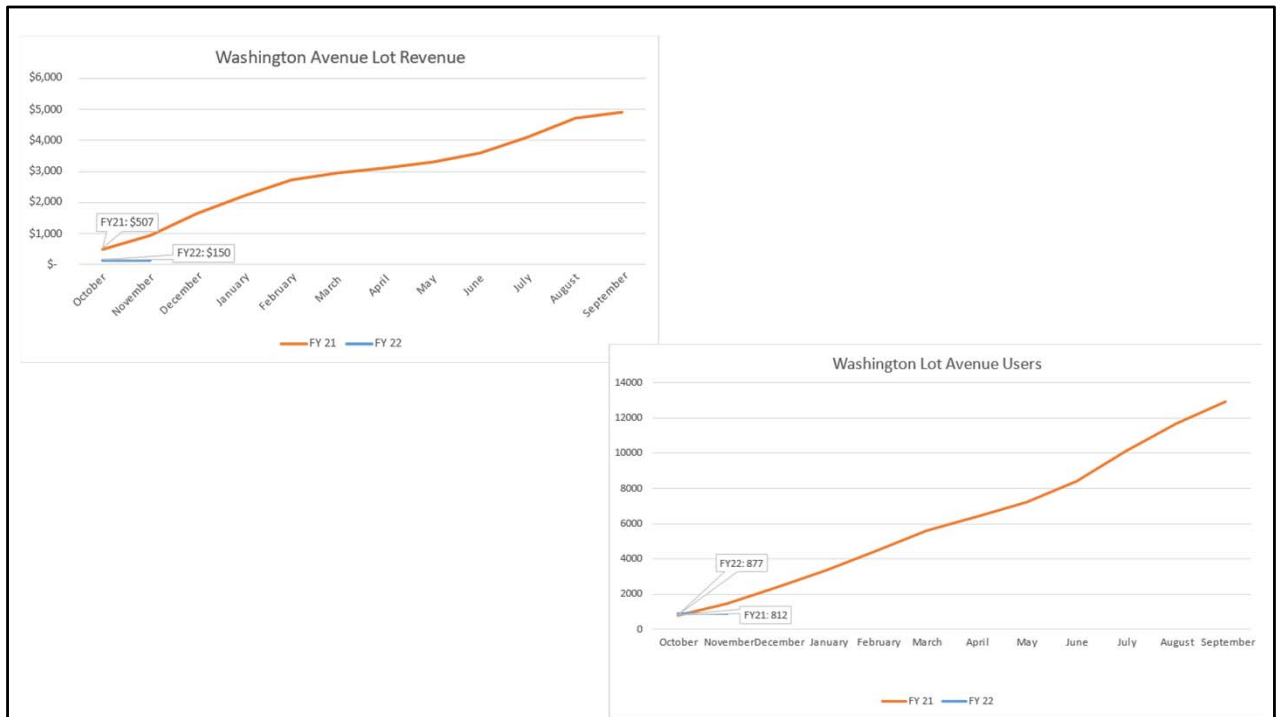




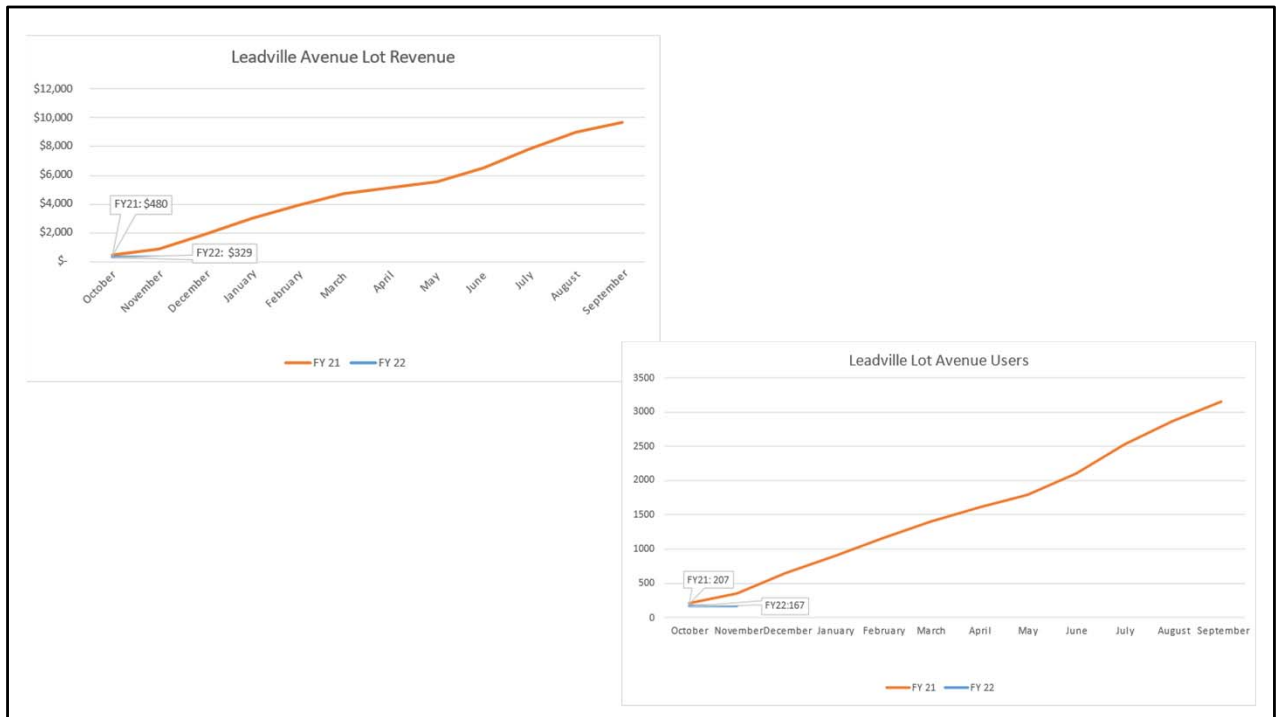
The Wastewater Fund revenues are up \$16,773 (6%) FYTD.  
 The Wastewater Fund expenditures are up \$43,365 (20%) FYTD.

# Off-Street Parking Lots

---



In the fiscal year to date, revenues at the Washington Avenue parking lot are down \$357 (70%) and users are up 65 (8%) relative to the prior year.



In the fiscal year to date, revenues at the Leadville Avenue parking lot are down \$151 (31.5%) and users are down 40 (19.3%) relative to the prior year.

## Report Criteria:

Invoices with totals above \$0 included.  
 Only unpaid invoices included.  
 [Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"  
 Invoice Detail.Voided = No,Yes

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>GENERAL FUND</b>			
<b>01-2175-9000 P/R DEDUC PBL--EMP CAF FSA-DC</b>			
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: DCA	761.32
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: FSA	759.86
<b>01-2300-0000 DEPOSITS-PARKS &amp; EVENTS</b>			
TRAILING OF THE SHEEP	102821	Partial Deposit Refund: \$100 Retained for F/M Assistance to TOTS	150.00
<b>01-3700-3600 REFUNDS &amp; REIMBURSEMENTS</b>			
MIGRATION STUDIOS	110421	RETURN: Building Permit Withdrawn	8,547.00
Total :			10,218.18
<b>LEGISLATIVE &amp; EXECUTIVE</b>			
<b>01-4110-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	19.85
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: HRAVIS	625.40
<b>01-4110-3200 OPERATING SUPPLIES</b>			
US BANK	6235 102521	Zoom: Standard Biz Annual	1,939.03
US BANK	6235 102521	Zoom: Webinar 500 Monthly	79.00
<b>01-4110-4800 DUES, SUBSCRIPTIONS &amp; MEMBERSH</b>			
US BANK	6235 102521	Zoom: Zoom Room Annual	482.59
Total LEGISLATIVE & EXECUTIVE:			3,145.87
<b>ADMINISTRATIVE SERVICES</b>			
<b>01-4150-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	45.40
<b>01-4150-3100 OFFICE SUPPLIES &amp; POSTAGE</b>			
ASSOCIATED BUSINESS FORMS,	4156	A/P Checks & Window Envelopes	355.55
ATKINSONS' MARKET	0202081876	Juice + Snacks for III-A Wellness Check	34.48
BUSINESS AS USUAL INC.	156560	11x17 Paper	46.02
COPY & PRINT, L.L.C.	110030	Banker Boxes	47.88
COPY & PRINT, L.L.C.	110038	Banker Boxes	239.95
COPY & PRINT, L.L.C.	110153	11x17 Paper	89.95
COPY & PRINT, L.L.C.	110212	SWD 70500, Ave 8066 Labels	63.39
COPY & PRINT, L.L.C.	110215	Binder, Paper	15.49
COPY & PRINT, L.L.C.	111457	File Organizer	13.99
GEM STATE PAPER & SUPPLY	1060686-01	Hand Soap	63.19
GEM STATE PAPER & SUPPLY	1061748	New City Hall Supplies: Coffee, cleaners, etc.	935.19
GEM STATE PAPER & SUPPLY	1061748-01	New City Hall Supplies	144.34
US BANK	6235 102521	Hailey Coffee Co: Carafe & Cups	37.58
US BANK	6235 102521	Staff Lunch on New City Hall Moving Day	205.01
<b>01-4150-4200 PROFESSIONAL SERVICES</b>			
US BANK	6235 102521	Presentation Folders	132.45
US BANK	6235 102521	Uprinting: Stickers	72.73

Vendor Name	Invoice Number	Description	Net Invoice Amount
WESTERN RECORDS DESTRUCT	0563320	October Records Destruction	110.00
<b>01-4150-4900 PERSONNEL TRAINING/TRAVEL/MTG</b>			
US BANK	9749	Skill Path Class: Managing Multiple Deadlines	149.00
<b>01-4150-5100 TELEPHONE &amp; COMMUNICATIONS</b>			
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	3,783.35
US BANK	1556 102521	Amazon: Polycom Vvx Expansion Module	331.70
COX BUSINESS	047131901 102	047131901 102621	69.79
<b>01-4150-5110 COMPUTER NETWORK</b>			
CDW GOVERNMENT, INC.	M564624	New City Hall: Meeting Room tech	769.43
GREAT AMERICA FINANCIAL SE	30353971	016-1147509-000 October Services (FINAL BILL)	1,239.54
KETCHUM COMPUTERS, INC.	18401	Oct 21 Admin	1,822.65
US BANK	9749	Microsoft	87.59-
US BANK	9749	Microsoft	6,601.64
US BANK	9749	8x8 Phone System	2,476.11
DELL FINANCIAL SERVICES	81074521	001-8998447-006 December 2021	11.30
<b>01-4150-5150 COMMUNICATIONS</b>			
US BANK	6235 102521	Wix Premium	30.00
US BANK	6235 102521	Facebook	2.00
US BANK	6235 102521	Mailchimp: Monthly Plan	87.99
US BANK	6235 102521	Constant Contact	9.50
<b>01-4150-5200 UTILITIES</b>			
CITY OF KETCHUM	103121	208 October 2021	479.79
CITY OF KETCHUM	103121	360 October 2021	53.66
CITY OF KETCHUM	103121	772 October 2021	64.15
CITY OF KETCHUM	103121	9994 October 2021	173.25
CITY OF KETCHUM	103121	9997 October 2021	350.07
CLEAR CREEK DISPOSAL	0001467117	480 East Ave N	34.20
CLEAR CREEK DISPOSAL	0001467121	Forest Service Park	164.07
CLEAR CREEK DISPOSAL	0001467122	191 5th St W - City Hall	141.47
CLEAR CREEK DISPOSAL	0001468277	4th St. & East Ave	60.00
IDAHO POWER	2200749261 10	2200749261 102521	1,360.93
INTERMOUNTAIN GAS	31904030009 1	31904030009 102521	65.34
INTERMOUNTAIN GAS	44919030005 1	44919030005 102521	21.23
<b>01-4150-6500 CONTRACTS FOR SERVICES</b>			
ALSCO - AMERICAN LINEN DIVI	LBO11938155-	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	28.39-
S & C ASSOCIATES LLC	2233	20-1008	1,609.00
S & C ASSOCIATES LLC	2237	20-1075	590.00
S & C ASSOCIATES LLC	2238	21-1002	237.50
S & C ASSOCIATES LLC	2239	21-1038	112.50
S & C ASSOCIATES LLC	2240	20-1069	1,137.00
S & C ASSOCIATES LLC	2243	21-1065	118.00
S & C ASSOCIATES LLC	2246	21-1048	118.00
S & C ASSOCIATES LLC	2247	21-1049	59.00
S & C ASSOCIATES LLC	2250	21-1084	177.00
<b>01-4150-6510 COMPUTER SERVICES</b>			
CASELLE, INC.	113043	Caselle Support & Maintenance 12/21	2,272.00
<b>01-4150-7400 OFFICE FURNITURE &amp; EQUIPMENT</b>			
US BANK	9642 102521	Amazon: Locking Check Cabinet	189.98
US BANK	9642 102521	Amazon: TRigger for Cash Drawer	22.99

Vendor Name	Invoice Number	Description	Net Invoice Amount
US BANK	9642 102521	Cash Register Drawer	97.94
US BANK	9749	Wayfair: Office Furniture	431.96
Total ADMINISTRATIVE SERVICES:			30,061.64

**PLANNING & BUILDING****01-4170-2515 VISION REIMBURSEMENT ACCT(HRA)**

NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	29.40
----------------------------	--------	------------------------------------	-------

**01-4170-4200 PROFESSIONAL SERVICES**

KETCHUM COMPUTERS, INC.	18401	Oct 21 P&B	812.25
S & C ASSOCIATES LLC	2229	19-1015	177.00
S & C ASSOCIATES LLC	2230	19-1048	118.00
S & C ASSOCIATES LLC	2231	19-1054	590.00
S & C ASSOCIATES LLC	2232	20-1004	354.00
S & C ASSOCIATES LLC	2234	20-1018	177.00
S & C ASSOCIATES LLC	2235	20-1043	118.00
S & C ASSOCIATES LLC	2236	20-1045	981.50
S & C ASSOCIATES LLC	2241	21-1007	118.00
S & C ASSOCIATES LLC	2242	21-1008	236.00
S & C ASSOCIATES LLC	2245	21-1016	590.00
S & C ASSOCIATES LLC	2248	21-1069	472.00
S & C ASSOCIATES LLC	2249	21-1073	236.00
S & C ASSOCIATES LLC	2251	21-1086	118.00
S & C ASSOCIATES LLC	2252	21-1088	59.00
S & C ASSOCIATES LLC	2253	21-1089	118.00

**01-4170-6910 OTHER PURCHASED SERVICES**

ESRI	26035616	ArcGIS Basic Primary	400.00
US BANK	0568 102521	APA Conference	75.00
US BANK	0568 102521	APA Conference	169.00
US BANK	0568 102521	APA Conference	75.00

Total PLANNING &amp; BUILDING:

6,023.15

**NON-DEPARTMENTAL****01-4193-4200 PROFESSIONAL SERVICE**

COPY CENTER LLC	1953	Warm Springs Preserve Informational Material	1,047.00
US BANK	6235 102521	Uprinting: Vinyl Banners	316.12
US BANK	6235 102521	Uprinting: Vinyl Banners	83.39
NESTED STRATEGIES	1036	CAPITAL CAMPAIGN CONSULTANT TO ACQUIRE WARM SPRINGS	6,250.00
SPUR COMMUNITY FOUNDATIO	1330	Monthly fee for donation processing per Warm Springs Preserve Grant Agreement	5,000.00
ALBOUM TRANSLATION SERVIC	Q-10941-01	Housing Survey English to Spanish	245.92

**01-4193-4500 1ST/WASHINGTON RENT**

URBAN RENEWAL AGENCY	5287	Parking Lot Rent- November 2021	3,000.00
----------------------	------	---------------------------------	----------

Total NON-DEPARTMENTAL:

15,942.43

**FACILITY MAINTENANCE****01-4194-2515 VISION REIMBURSEMENT ACCT(HRA)**

NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	33.93
----------------------------	--------	------------------------------------	-------

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>01-4194-3200 OPERATING SUPPLIES</b>			
CHATEAU DRUG CENTER	2459871	Gloves	9.49
GEM STATE PAPER & SUPPLY	1060876	Hand Soap, Toilet Paper	226.45
<b>01-4194-3500 MOTOR FUELS &amp; LUBRICANTS</b>			
UNITED OIL	978875	38950 103121	449.04
<b>01-4194-4200 PROFESSIONAL SERVICES</b>			
ARBOR CARE	6405	City Corridor/Sidewalk/ROW: Plant Growth Regulator	2,462.00
KETCHUM COMPUTERS, INC.	18401	Oct 21 F/M	275.50
LILY & FERN, LLC	4585	Lucy Loken Park: Clean-Up, Rose Wintering	331.66
YASENAK, DAVID	1723	Little Park: Routed in Memorial Plaque	50.00
<b>01-4194-5200 UTILITIES</b>			
CITY OF KETCHUM	103121	456 October 2021	14.55
CITY OF KETCHUM	103121	532 October 2021	106.76
CITY OF KETCHUM	103121	536 October 2021	142.45
CITY OF KETCHUM	103121	560 October 2021	20.30
CITY OF KETCHUM	103121	1127 October 2021	14.55
CITY OF KETCHUM	103121	1245 October 2021	39.12
CITY OF KETCHUM	103121	9991 October 2021	60.57
CITY OF KETCHUM	103121	9995 October 2021	206.35
CITY OF KETCHUM	103121	9996 October 2021	53.67
CITY OF KETCHUM	192 103121	192 October 2021	319.09
CLEAR CREEK DISPOSAL	0001467116	1178 Warm Springs - Skate Park	199.37
CLEAR CREEK DISPOSAL	0001467119	8th St & 2nd Ave - Pump Park	247.23
CLEAR CREEK DISPOSAL	0001467120	1177 Warm Springs - Rotary Park	156.32
CLEAR CREEK DISPOSAL	0001467944	Memory Park	221.41
INTERMOUNTAIN GAS	65669030002 1	65669030002 102521	9.79
<b>01-4194-5300 CUSTODIAL &amp; CLEANING SERVICES</b>			
WESTERN BUILIDNG MAINTEN	0131680-IN	Monthly Janitorial Service	4,798.12
<b>01-4194-5900 REPAIR &amp; MAINTENANCE-BUILDINGS</b>			
APEX	00033602	Key Cards and Fobs for New City Hall	715.00
<b>01-4194-6000 REPAIR &amp; MAINT-AUTOMOTIVE EQUI</b>			
RIVER RUN AUTO PARTS	6538-171625	Fuses	3.30
RIVER RUN AUTO PARTS	6538-171786	7 Quart Drain	4.49
US BANK	9988 102521	Amazon: Car Heater 12V 150W	34.99
<b>01-4194-6100 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>			
LES SCHWAB	11700720615	Flat Tire Repair	20.00
<b>01-4194-6950 MAINTENANCE</b>			
A.C. HOUSTON LUMBER CO.	2110-843446	New City Hall: Fasteners	11.98
A.C. HOUSTON LUMBER CO.	2110-843911	Padlock, Swivel Hasp ZN	31.28
A.C. HOUSTON LUMBER CO.	2110-844358	New City Hall: Lock	44.89
A.C. HOUSTON LUMBER CO.	2110-844772	New City Hall: Phillips Bits	12.16
A.C. HOUSTON LUMBER CO.	2110-844930	New City Hall: Misc. Parts	10.08
A.C. HOUSTON LUMBER CO.	2110-845411	New City Hall: Fasteners	1.18
A.C. HOUSTON LUMBER CO.	2110-845604	New City Hall: Washers, Parts	4.64
A.C. HOUSTON LUMBER CO.	2110-845766	Zinc Picture Hangers	3.98
A.C. HOUSTON LUMBER CO.	2110-845783	New City Hall: Drywall Anchors, Fasteners	21.59
A.C. HOUSTON LUMBER CO.	2110-845843	New City Hall: Dishwaser clamp & Connectors	14.17
A.C. HOUSTON LUMBER CO.	2110-846034	New City Hall: Shims & Fasteners	27.37
A.C. HOUSTON LUMBER CO.	2110-846247	New City Hall: Screws, Bolt	18.68
A.C. HOUSTON LUMBER CO.	2110-847134	Gal Bar & Chain Lube	11.99



Vendor Name	Invoice Number	Description	Net Invoice Amount
A.C. HOUSTON LUMBER CO.	2110-847156	Old City Hall: Bolt, Chain	16.25
A.C. HOUSTON LUMBER CO.	2111-847776	Shelving Boards	13.11
A.C. HOUSTON LUMBER CO.	2111-848255	Gorilla Const Adhes, Masking tape	9.78
A.C. HOUSTON LUMBER CO.	2111-849647	New City Hall: Door Hardware	39.99
A.C. HOUSTON LUMBER CO.	2111-849737	Screwdriver Set 6 pc	11.09
A.C. HOUSTON LUMBER CO.	2111-850976	New City Hall: Dry Wall Anchors, Fastners	24.59
A.C. HOUSTON LUMBER CO.	2111-850978	New City Hall Sheriffs Office Door Lock	224.37
A.C. HOUSTON LUMBER CO.	2111-851014	Water Putty	2.29
A.C. HOUSTON LUMBER CO.	2111-851076	Flat Bits, Lock Instal Kit	35.77
CHATEAU DRUG CENTER	2462822	Gorilla Mounting Tape	7.59
CHATEAU DRUG CENTER	2463836	New City Hall: Police Padlock	23.74
COLOR HAUS, INC.	253361	Putty Stick	5.39
PIPECO, INC.	S4391800.001	New City Hall: Cement PVC GLue	21.16
PLATT ELECTRIC SUPPLY	2E41096	Town Square Restorooms: Repair Materials	13.62
SAWTOOTH WOOD PRODUCTS, I	0000130041	Pole Pruner Set w/ Blade	299.98
US BANK	9988 102521	Costco: Sanus Mount	148.39
Total FACILITY MAINTENANCE:			12,336.60

**POLICE****01-4210-2515 VISION REIMBURSEMENT ACCT(HRA)**

NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	9.80
----------------------------	--------	------------------------------------	------

**01-4210-3200 OPERATING SUPPLIES**

CHATEAU DRUG CENTER	2465172	Snow Broom, Mitt, Gloves	84.51
---------------------	---------	--------------------------	-------

**01-4210-3600 COMPUTER SOFTWARE**

CALE AMERICA, INC.	166408	October 2021 Active Meters	165.00
--------------------	--------	----------------------------	--------

**01-4210-3610 PARKING OPS PROCESSING FEES**

OMNI PARK	123563	Omni Park Subscription	737.00
-----------	--------	------------------------	--------

**01-4210-3620 PARKING OPS EQUIPMENT FEES**

UNITED OIL	978889	39060 103121	105.47
------------	--------	--------------	--------

**01-4210-4200 PROFESSIONAL SERVICES**

KETCHUM COMPUTERS, INC.	18402	Computer Support - BCSO (including moving fees)	4,575.75
-------------------------	-------	---	----------

Total POLICE:

5,677.53

**FIRE & RESCUE****01-4230-2505 HEALTH REIMBURSEMENT ACCT(HRA)**

NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: HRA	196.03
----------------------------	----------	-------------------------------	--------

**01-4230-2515 VISION REIMBURSEMENT ACCT(HRA)**

NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	75.05
----------------------------	--------	------------------------------------	-------

**01-4230-3200 OPERATING SUPPLIES FIRE**

ATKINSONS' MARKET	04125745	Cleaning supplies	4.55
ATKINSONS' MARKET	06547860	Coffee	27.54
ATKINSONS' MARKET	PAST DUE	Cleaning Supplies	18.88
BUSINESS AS USUAL INC.	156549	Bell for reception area	4.25
CONSOLIDATED ELECTRICAL DI	3755-1016651	5-20P-H connector auto/eject	202.80
COPY & PRINT, L.L.C.	111461	Office Supplies	39.99
COPY & PRINT, L.L.C.	111464	Office Supplies	35.30
GEM STATE PAPER & SUPPLY	1061163	Hand Towels	38.15

Vendor Name	Invoice Number	Description	Net Invoice Amount
US BANK	4977 102521	GoToMeeting	9.50
US BANK	4977 102521	Bathroom Supply	46.86
US BANK	9939 102521	Software	89.94
US BANK	9939 102521	Flag for New Station, cover plate	166.23
CURTIS TOOLS FOR HEROES	INV539523	Firefighting Gloves	445.59
MCLAUGHLIN, BILL	102921	Reimbursement for Paint	30.93
SEAWESTERN	INV12536	Fire Hose	2,448.00
<b>01-4230-3210 OPERATING SUPPLIES EMS</b>			
ATKINSONS' MARKET	04125745	Cleaning Supplies	4.55
ATKINSONS' MARKET	06547860	Coffee	27.54
ATKINSONS' MARKET	PAST DUE	Cleaning Supplies	18.88
BUSINESS AS USUAL INC.	156549	Bell for reception area	4.25
CONSOLIDATED ELECTRICAL DI	3755-1016651	5-20P-H connector auto eject	202.80
COPY & PRINT, L.L.C.	111461	Office Supplies	39.99
COPY & PRINT, L.L.C.	111464	Office Supplies	35.30
GEM STATE PAPER & SUPPLY	1061163	Hand Towels	38.14
NORCO	33413768 1031	52355 103121	36.27
NORCO	33414830	54794 103121	229.40
LINDE GAS & EQUIPMENT INC.	66707562	Cylinder Rental	57.93
US BANK	4977 102521	GoToMeeting	9.50
US BANK	4977 102521	Bathroom Supply	46.84
US BANK	9939 102521	Software	89.94
US BANK	9939 102521	Flaf for new Station, cover plate	166.22
HENRY SCHEIN	12221549	Medical Supplies	236.25
MCLAUGHLIN, BILL	102921	Reimbursement for Paint	30.92
<b>01-4230-3500 MOTOR FUELS &amp; LUBRICANTS FIRE</b>			
UNITED OIL	978724	37267 103121	413.43
<b>01-4230-3510 MOTOR FUELS &amp; LUBRICANTS EMS</b>			
UNITED OIL	978724	37267 103121	151.23
<b>01-4230-4200 PROFESSIONAL SERVICES FIRE</b>			
KETCHUM COMPUTERS, INC.	18401	Oct 21 Fire	761.25
<b>01-4230-4910 TRAINING EMS</b>			
US BANK	4977 102521	Recertification Vouchers	60.00
<b>01-4230-5100 TELEPHONE &amp; COMMUNICATION FIRE</b>			
MTE COMMUNICATIONS	056983 110121	056983 110121	15.13
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	2,187.50
VERIZON WIRELESS	9891361139	842054354 102321	303.57
COX BUSINESS	027222301 102	027222301 102021	33.84
COX BUSINESS	049446101 102	049446101 102921	123.28
WHITE CLOUD	100467	Radio Repairs	400.00
<b>01-4230-5110 TELEPHONE &amp; COMMUNICATION EMS</b>			
MTE COMMUNICATIONS	056983 110121	056983 110121	15.12
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	2,187.50
VERIZON WIRELESS	9891361139	842054354 102321	303.56
COX BUSINESS	027222301 102	027222301 102021	33.83
COX BUSINESS	049446101 102	049446101 102921	123.27
WHITE CLOUD	100467	Radio Repairs	400.00
<b>01-4230-5200 UTILITIES</b>			
CITY OF KETCHUM	103121	2307 October 2021	26.06
IDAHO POWER	2226144497 10	2226144497 102721	811.72

Vendor Name	Invoice Number	Description	Net Invoice Amount
INTERMOUNTAIN GAS	26223127833 1	26223127833 102521	149.30
<b>01-4230-6000 REPAIR &amp; MAINT-AUTO EQUIP FIRE</b>			
A.C. HOUSTON LUMBER CO.	2111-848727	Fasteners	5.60
A.C. HOUSTON LUMBER CO.	2111-848796	Fasteners	.57
ALSCO - AMERICAN LINEN DIVI	LBOI1936825	5109 102521	12.27
ALSCO - AMERICAN LINEN DIVI	LBOI1940496	5109 110821	12.27
HUGHES FIRE EQUIPMENT, INC.	570369	Water probe for E1	382.51
RIVER RUN AUTO PARTS	6538-171475	22" Winter Wiper Blade	29.90
RIVER RUN AUTO PARTS	6538-171553	Mini Bulb for E1	3.56
RIVER RUN AUTO PARTS	6538-171572	Couplers	13.78
RIVER RUN AUTO PARTS	6538-171679	Tire Deflator, Valve S-pack	5.28
RIVER RUN AUTO PARTS	6538-171736	Thread Lock - Red	15.42
SILVER CREEK FORD	46029022	Reasonator Assembly C12	117.73
<b>01-4230-6010 REPAIR &amp; MAINT-AUTO EQUIP EMS</b>			
ALSCO - AMERICAN LINEN DIVI	LBOI1936825	5109 102521	12.26
ALSCO - AMERICAN LINEN DIVI	LBOI1940496	5109 110821	12.26
<b>01-4230-6100 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>			
RIVER RUN AUTO PARTS	6538-171553	Val Non Detergent 30 for Compressor	8.95
US BANK	9939 102521	Computer Cables	20.51
<b>01-4230-6110 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>			
US BANK	9939 102521	Computer Cables	20.50
Total FIRE & RESCUE:			14,327.27
<b>STREET</b>			
<b>01-4310-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: HRA	890.90
<b>01-4310-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	53.77
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: HRAVIS	625.02
<b>01-4310-3200 OPERATING SUPPLIES</b>			
BUSINESS AS USUAL INC.	156621	Misc. Office Supplies	300.20
DAVIS EMBROIDERY INC.	38766	Street & Facilities Tee Shirts and Embroidery	144.00
NAPA AUTO PARTS	079988	Floor Dry to Clean Up Oil	51.45
RIVER RUN AUTO PARTS	6538-171742	Screws, MFD 8020	54.36
US BANK	2022 102521	Amazon: Kelli Work Tees, Neck Gaiters for Streets & F/M	81.96
US BANK	2022 102521	Amazon: Ramsy's Daily Planner	15.99
US BANK	2022 102521	Amazon: Self Inking Rubber Stamp	6.49
US BANK	6235 102521	Moo Business Cards	43.95
<b>01-4310-3400 MINOR EQUIPMENT</b>			
A.C. HOUSTON LUMBER CO.	2111-851824	Titan Folding Knife for Shop	29.97
NAPA AUTO PARTS	079396	Z Hose End Fitting, Hose End	21.55
<b>01-4310-3500 MOTOR FUELS &amp; LUBRICANTS</b>			
UNITED OIL	978726	37269 103121	1,747.44
<b>01-4310-4200 PROFESSIONAL SERVICES</b>			
KETCHUM COMPUTERS, INC.	18401	Oct 21 Streets	290.00
BACKGROUND INVESTATION B	CIT025110121-	Streets Applicant	23.95
S & C ASSOCIATES LLC	2239	21-1038	236.00

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>01-4310-5100 TELEPHONE &amp; COMMUNICATIONS</b>			
PLATT ELECTRIC SUPPLY	2D88737	Snowcam Piping	58.31
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	500.00
<b>01-4310-5200 UTILITIES</b>			
CITY OF KETCHUM	103121	9993 October 2021	95.05
CITY OF KETCHUM	103121	9999 October 2021	72.11
INTERMOUNTAIN GAS	49439330009 1	49439330009 102521	61.12
<b>01-4310-6000 REPAIR &amp; MAINT--AUTOMOTIVE EQU</b>			
NAPA AUTO PARTS	079956	Air and Oil Filter: #34 Durango	7.48
<b>01-4310-6100 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>			
CLEARWATER POWER EQUIPME	16612	Pickup Sander: Pillow Block Spinner Bearing, Zinc Spinner Shaft	144.10
FASTENAL COMPANY	IDJER100055	5/8-11 G8 ECOGD FHN	20.31
NAPA AUTO PARTS	080256	Cabin Air Filter: #20 140M Grader	12.79
NAPA AUTO PARTS	883939	CREDIT: Battery Core from #35 Tool Cat	32.40-
US BANK	2022 102521	Kaman Industrial Tech: Take-Up Unit	212.54
US BANK	2022 102521	Amazon: Headlights for Dump Trucks	577.56
WESTERN STATES CAT	IN001824593	Halogen Light	57.84
WESTERN STATES CAT	IN001824599	Cutting Edge	310.08
JACKSON GROUP PETERBILT	257796	#12 Plowtruck: Tire Rod End	143.39
JACKSON GROUP PETERBILT	CM257188	#12 Plowtruck: CREDIT MEMO Tire Rod End	140.68-
HIGH DESERT BOBCAT	P00403	#35 Toolcat: Nuts, Stud Wheels, Freight	76.26
<b>01-4310-6910 OTHER PURCHASED SERVICES</b>			
ALSCO - AMERICAN LINEN DIVI	LBOI1937924	5831 102921	45.00
ALSCO - AMERICAN LINEN DIVI	LBOI1938155	5831 102921	68.13
NORCO	32785523	Carbon Dioxide	50.63
NORCO	33173465	53271 093021	226.50
NORCO	33413842	53271 103121	234.05
<b>01-4310-6920 SIGNS &amp; SIGNALIZATION</b>			
NAPA AUTO PARTS	077795	CREDIT MEMO: Core Battery Deposit	388.80-
NATIONAL SIGNAL INC.	0036061-IN	Electronic Sign Boards: Solar Cells	39.80
SC SUPPLY COMPANY LLC	43339	Ground Mount Stakes	298.63
<b>01-4310-6930 STREET LIGHTING</b>			
S & C ASSOCIATES LLC	2239	21-1038	354.00
<b>01-4310-6950 MAINTENANCE &amp; IMPROVEMENTS</b>			
FASTENAL COMPANY	IDJER96904	Street Marking	53.43
IDAHO ASPHALT SUPPLY, INC.	111021	RE-PAYMENT of Mis-Issued Credit Memo	703.00
LUNCEFORD EXCAVATION, INC.	12530	Top Soil for Snow Dump	720.00
ROAD WORK AHEAD CONST. SU	52243	Snow Dump: Stakes, Wattles	595.00
WEBB LANDSCAPING	K-IN-164808	Seed Mix	34.55
Total STREET:			9,826.78
<b>RECREATION</b>			
<b>01-4510-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	22.95
<b>01-4510-3200 OPERATING SUPPLIES</b>			
RIVER RUN AUTO PARTS	6538-171744	Jumper Cables	39.95

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>01-4510-3210 SPECIAL EVENT SUPPLIES</b>			
CHATEAU DRUG CENTER	2460571	Perler Kits- Fused Bead craft	30.37
<b>01-4510-3250 RECREATION SUPPLIES</b>			
US BANK	7926 102521	Amazon: Traffic Cones	216.46
US BANK	7926 102521	Amazon: Heavy Duty Garage Shelf	504.99
US BANK	7926 102521	Amazon: Embroidery Floss	9.99
US BANK	7926 102521	Amazon: Rec Materials	36.98
US BANK	7926 102521	Amazon: Craft Cabinet	38.99
US BANK	7926 102521	Amazon: Wood Balance Board Trainer	38.99
US BANK	7926 102521	Amazon: Pickleball Paddles, Balls, Bag, Fiberglass Surface	173.97
US BANK	7926 102521	Amazon: Franklin Junior Professional 5010	59.96
US BANK	9642 102521	Amazon: Stackable 13-1/4" Sifting Pan	29.99
US BANK	9642 102521	Amazon: 10-Pack Foosball Table Games	7.99
<b>01-4510-3300 RESALE ITEMS-CONCESSION SUPPLY</b>			
ATKINSONS' MARKET	0101411644	Apples, Buttermilk	7.60
ATKINSONS' MARKET	0202070868	Fruit	22.40
ATKINSONS' MARKET	0404111132	Cereal and Milk	10.42
ATKINSONS' MARKET	0404114225	Salsa	4.08
ATKINSONS' MARKET	0606543416	Pretzels, Strawberries, Peppers, Cereal, Sauces, Hotdogs	147.51
ATKINSONS' MARKET	0808354897	Perruche	5.98
ATKINSONS' MARKET	0808366538	Cheese, Ranch, Pizza, Muffins, Apples, Pepperoni, misc.	74.19
ATKINSONS' MARKET	0808368004	Powdered Sugar, Eggs, Cream Cheese, Carrots, Veggies	22.41
ATKINSONS' MARKET	0808369915	Pumpkins, Grapes, Bell Peppers	29.61
US BANK	7926 102521	Costco: Kitchen Aid	412.78
<b>01-4510-3500 MOTOR FUELS &amp; LUBRICANTS</b>			
UNITED OIL	978725	37268 103121	60.46
<b>01-4510-4200 PROFESSIONAL SERVICE</b>			
CLEAR CREEK LAND CO. LLC	31521	Atkinsons Park Container Fee	200.00
KETCHUM COMPUTERS, INC.	18401	Oct 21 Parks	261.00
BACKGROUND INVESTATION B	CIT025110121-	Parks Applicant	28.95
<b>01-4510-5200 UTILITIES</b>			
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	500.00
<b>01-4510-6000 REPAIR &amp; MAINT--AUTOMOTIVE EQU</b>			
CLEARWATER POWER EQUIPME	16740	Tap Ends	49.36
KETCHUM AUTOMOTIVE INC.	93666	Oil Change	65.31
KETCHUM AUTOMOTIVE INC.	93666	TAX FREE	2.73-
KETCHUM AUTOMOTIVE INC.	93672	Oil Change	62.18
KETCHUM AUTOMOTIVE INC.	93672	TAX FREE	2.49-
KETCHUM AUTOMOTIVE INC.	93677	Oil Change	67.43
KETCHUM AUTOMOTIVE INC.	93677	TAX FREE	2.89-
<b>01-4510-6100 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>			
A.C. HOUSTON LUMBER CO.	2110-845933	Hex Bolt & Flat Washer	2.48
Total RECREATION:			3,237.62
Total GENERAL FUND:			110,797.07

**WAGON DAYS FUND**  
**WAGON DAYS EXPENDITURES**

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>02-4530-4200 PROFESSIONAL SERVICES</b>			
NORTH SIDE BUS CO., INC.	7032	Charter Bus - Wagon Days 2021	450.00
<b>02-4530-4220 GRAND MARSHAL DINNER</b>			
BURKE BROTHERS BRONZE	1188	Grand Marshal Bolo Tie	700.00
Total WAGON DAYS EXPENDITURES:			1,150.00
Total WAGON DAYS FUND:			1,150.00
<b>GENERAL CAPITAL IMPROVEMENT FD</b>			
<b>GENERAL CIP EXPENDITURES</b>			
<b>03-4193-7607 SIDEWALK CURB AND GUTTER</b>			
S & C ASSOCIATES LLC	2239	21-1038	708.00
Total GENERAL CIP EXPENDITURES:			708.00
Total GENERAL CAPITAL IMPROVEMENT FD:			708.00
<b>FIRE &amp; RESCUE CAPITAL IMPR.FND</b>			
<b>FIRE/RESC CAPITAL EXPENDITURES</b>			
<b>11-4230-7600 OTHER MACH &amp; EQUIP</b>			
NORCO	33325909	52355 102021	2,795.00
US BANK	9939 102521	PPEs	1,798.00
Total FIRE/RESC CAPITAL EXPENDITURES:			4,593.00
Total FIRE & RESCUE CAPITAL IMPR.FND:			4,593.00
<b>ORIGINAL LOT FUND</b>			
<b>ORIGINAL LOT TAX</b>			
<b>22-4910-6040 SUN VALLEY MARKETING ALLIANCE</b>			
ENVIRONMENTAL RESOURCE C	20214	Ketchum Alive Recycling Support	945.00
<b>22-4910-6060 EVENTS/PROMOTIONS</b>			
CLEAR CREEK DISPOSAL	0001467946	2nd St East & Washington Ave	145.00
<b>22-4910-6070 SVED</b>			
SUN VALLEY ECONOMIC DEVEL	1313	Q4 2021	2,250.00
<b>22-4910-6075 IDAHO DARK SKY ALLIANCE</b>			
IDAHO DARK SKY ALLIANCE	21004	FY22 DARK SKY EDUCATION OUTREACH	2,200.00
<b>22-4910-6080 MOUNTAIN RIDES</b>			
MOUNTAIN RIDES	11667	Monthly Installment 11/21	57,250.00
<b>22-4910-6085 FRIENDS OF THE SAWTOOTH NF</b>			
FRIENDS OF SAWTOOTH NF	103121	FSAC LEVEL 4 SPONSORSHIP	4,000.00
<b>22-4910-6090 CONSOLIDATED DISPATCH</b>			
BLAINE COUNTY EMERGENCY	390	Dispatch Services	161,556.00
Total ORIGINAL LOT TAX:			228,346.00

Vendor Name	Invoice Number	Description	Net Invoice Amount
Total ORIGINAL LOT FUND:			228,346.00
<b>FIRE CONSTRUCTION FUND</b>			
<b>FIRE FUND EXP/TRNFRS</b>			
<b>42-4800-7400 OFFICE FURNITURE</b>			
US BANK	9642 102521	Amazon: 4 Wire Shelving Units	599.92
US BANK	9939 102521	Furniture for new station (Washer, Dryer, Chairs, etc)	4,416.79
<b>42-4800-7450 EQUIPMENT</b>			
DELL MARKETING L.P.	10526824272	Computer Equipment	940.00
DELL MARKETING L.P.	10529557257	Computer Equipment	1,100.00
ULINE	140166898	Storage Racks, Table, Trash and Recycle bins	4,210.35
US BANK	4977 102521	EMS Supplies for New Station	265.57
US BANK	9939 102521	Equipment for new station (Computers, cables and all kinds of components for computers)	3,519.00
AT&T MOBILITY LLC	287307161044	New Equipment for new Fire Station	8,555.61
<b>42-4800-7800 CONSTRUCTION</b>			
APEX	00033616	Service door lock system	120.00
KETCHUM COMPUTERS, INC.	18401	Oct 21 New Fire Station	1,051.25
LUTZ RENTALS	125668-1	Trailer	54.00
US BANK	9939 102521	Construction items for new station (Electric outlet covers, Reflective Glass Beads)	65.23
DENNIS POTTS PROJECT MGMT,	1348	Construction Management Services 21/21	19,657.51
Total FIRE FUND EXP/TRNFRS:			44,555.23
Total FIRE CONSTRUCTION FUND:			44,555.23
<b>STRATEGIC INITIATIVE FUND</b>			
<b>STRATEGIC INITIATIVE EXPENSE</b>			
<b>54-4410-4200 PROFESSIONAL SERVICES</b>			
AGNEW BECK CONSULTING INC	9873	Housing Action Plan & Assessment	5,640.46
Total STRATEGIC INITIATIVE EXPENSE:			5,640.46
Total STRATEGIC INITIATIVE FUND:			5,640.46
<b>WATER FUND</b>			
<b>WATER EXPENDITURES</b>			
<b>63-4340-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	26.05
<b>63-4340-3100 OFFICE SUPPLIES &amp; POSTAGE</b>			
BUSINESS AS USUAL INC.	156455	Misc. Office Supplies	26.66
<b>63-4340-3200 OPERATING SUPPLIES</b>			
ALSCO - AMERICAN LINEN DIVI	LBO11940080	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	28.42
ALSCO - AMERICAN LINEN DIVI	LBO11940082	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	56.43
D & B SUPPLY INC.	52517	Work Pants: K. Chatterton	119.98
D & B SUPPLY INC.	54544	Jeans & Boots: S. Gaston	275.56
GO-FER-IT	107301	292 102921	20.00
PIPECO, INC.	S4381762.001	Blue Marking Paint	118.89

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>63-4340-3250 LABORATORY/ANALYSIS</b>			
MAGIC VALLEY LABS, INC.	22305	Drinking Water Bacteria, Cooler Return	100.00
<b>63-4340-3400 MINOR EQUIPMENT</b>			
A.C. HOUSTON LUMBER CO.	2111-851296	16' x 20' Tarp	95.98
RIVER RUN AUTO PARTS	6538-171878	IMP DP 3/4DR 1-5/16	24.39
<b>63-4340-3500 MOTOR FUELS &amp; LUBRICANTS</b>			
UNITED OIL	978728	37271 103121	416.06
<b>63-4340-3800 CHEMICALS</b>			
GEM STATE WELDERS SUPPLY,I	E266759	55 Gallon Sodium Hypochlorite (x2)	492.48
<b>63-4340-4200 PROFESSIONAL SERVICES</b>			
DIG LINE	0066874-IN	0000167 103021	77.35
KETCHUM COMPUTERS, INC.	18401	Oct 21 Water	275.50
<b>63-4340-4300 STATE &amp; WA DISTRICT FEES</b>			
IDAHO DEPT. OF ENVIRONMENT	20220000485	Diesel	162.00
<b>63-4340-4900 PERSONNEL TRAINING/TRAVEL/MTG</b>			
CHATTERTON, KELLEN	111121	Travel for Class: Mileage	73.44
CHATTERTON, KELLEN	111121	Travel for Class: Meals	13.75
US BANK	9642 102521	Drinking Water Treatment Class	30.00
US BANK	9642 102521	Drinking Water Distribution Class	30.00
US BANK	9642 102521	Wastewater Collection Class	30.00
US BANK	9642 102521	Practical Personnel Management: Gio	150.00
<b>63-4340-5100 TELEPHONE &amp; COMMUNICATIONS</b>			
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	250.00
<b>63-4340-5200 UTILITIES</b>			
IDAHO POWER	2203658592 10	2203658592 102621	7,906.24
RIVER RUN AUTO PARTS	6538-171900	64oz DS-RX Anti Gel	18.95
<b>63-4340-6000 REPAIR &amp; MAINT-AUTO EQUIP</b>			
RIVER RUN AUTO PARTS	6538-171745	Prime Guard	4.95
RIVER RUN AUTO PARTS	6538-171952	ABS Wheel Speed Sensor	106.70
WINDOW WELDER	153273	Utilities Windshield Repair: Under Insurance Deductible	259.59
WINDOW WELDER	153276	Utilities Windshield Repair: Under Insurance Deductible	348.42
<b>63-4340-6100 REPAIR &amp; MAINT-MACH &amp; EQUIP</b>			
BROOKS WELDING	14654	Misc Metal	127.70
MOUNTAIN FIRE SPRINKLER	2534	Annual Fire Sprinkler Inspections	577.50
PLATT ELECTRIC SUPPLY	2F32563	LFU 217002P 250V	11.84
Total WATER EXPENDITURES:			12,254.83
Total WATER FUND:			12,254.83
<b>WATER CAPITAL IMPROVEMENT FUND</b>			
<b>WATER CIP EXPENDITURES</b>			
<b>64-4340-7650 WATER METERS</b>			
FERGUSON ENTERPRISES, LLC	0781142-2	Insulated Pad, Meter Locks, Meter Boxes	3,177.54



Vendor Name	Invoice Number	Description	Net Invoice Amount
Total WATER CIP EXPENDITURES:			3,177.54
Total WATER CAPITAL IMPROVEMENT FUND:			3,177.54
<b>WASTEWATER FUND</b>			
<b>WASTEWATER EXPENDITURES</b>			
<b>65-4350-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	CP299380	Claims Paid October 2021: HRA	406.20
<b>65-4350-2515 VISION REIMBURSEMENT ACCT(HRA)</b>			
NBS-NATIONAL BENEFIT SERVI	826428	Admin Fees October 2021: FSA & HRA	29.65
<b>65-4350-3100 OFFICE SUPPLIES &amp; POSTAGE</b>			
BUSINESS AS USUAL INC.	156455	Misc. Office Supplies	26.67
<b>65-4350-3200 OPERATING SUPPLIES</b>			
A.C. HOUSTON LUMBER CO.	2111-851800	13' Ratchet Strap	15.58
ALSCO - AMERICAN LINEN DIVI	LBO11936353	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	126.36
ALSCO - AMERICAN LINEN DIVI	LBO11940080	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	28.41
ALSCO - AMERICAN LINEN DIVI	LBO11940081	VARIOUS SUPPLIES (MATS, MOPS, TOWELS, ETC) 2021-2022 CONTRACT	126.36
D & B SUPPLY INC.	54036	Work Pants: C. Riggs	179.99
GEM STATE PAPER & SUPPLY	1060954	Nitrile Gloves, Towels	213.88
GEM STATE PAPER & SUPPLY	1060954-01	Towels	22.51
GEM STATE PAPER & SUPPLY	1061303	Nitrile Gloves	106.94
GEM STATE PAPER & SUPPLY	1061310	RETURN: Nitrile Gloves	106.94
PIPECO, INC.	S4399285.001	Gloves: Nitrile, Thermal, & Wonder Grip	26.54
TREASURE VALLEY COFFEE INC	2160 07902616	COFFEE	60.30
<b>65-4350-3500 MOTOR FUELS &amp; LUBRICANTS</b>			
UNITED OIL	395856	37270 110421	3,892.44
UNITED OIL	978727	37270 103121	381.52
<b>65-4350-4200 PROFESSIONAL SERVICES</b>			
ANALYTICAL LABORATORIES, I	85786	Chemicals and shipping	597.02
KETCHUM COMPUTERS, INC.	18401	Oct 21 Wastewater	239.25
US BANK	9642 102521	PH Strips	105.47
<b>65-4350-5100 TELEPHONE &amp; COMMUNICATIONS</b>			
SYRINGA NETWORKS, LLC	21NOV0349	21NOV0349	250.00
<b>65-4350-5200 UTILITIES</b>			
INTERMOUNTAIN GAS	58208688554 1	58208688554 102521	9.79
<b>65-4350-6000 REPAIR &amp; MAINT-AUTO EQUIP</b>			
LES SCHWAB	11700719079	CREDIT: Account Correction	40.02-
<b>65-4350-6100 REPAIR &amp; MAINT-MACH &amp; EQUIP</b>			
McMASTER-CARR SUPPLY CO.	66762404	Standard-Wall PVC Pipe Fitting	38.72
US BANK	9642 102521	Amazon: ML12-12 - 12 Volt 12 AH Battery	49.99
<b>65-4350-6900 COLLECTION SYSTEM SERVICES/CHA</b>			
CHATEAU DRUG CENTER	2464884	Mag1 8oz Belt Dressing	4.74
DIG LINE	0066874-IN	0000167 103021	77.35
ESRI	26035616	ArcGIS Basic Secondary	300.00

Vendor Name	Invoice Number	Description	Net Invoice Amount
RIVER RUN AUTO PARTS	6538-171766	Motor Oil	19.17
RIVER RUN AUTO PARTS	6538-171823	Oil Full Syn, Oil Filter	51.49
UNITED OIL	978727	37270 103121	55.04
Total WASTEWATER EXPENDITURES:			7,294.42
Total WASTEWATER FUND:			7,294.42
<b>PARKS/REC DEV TRUST FUND</b>			
<b>PARKS/REC TRUST EXPENDITURES</b>			
<b>93-4900-6000 GUY COLES SKATE PARK</b>			
S & C ASSOCIATES LLC	2239	21-1038	944.00
Total PARKS/REC TRUST EXPENDITURES:			944.00
Total PARKS/REC DEV TRUST FUND:			944.00
<b>ESSENTIAL SERVICES FAC. TRUST</b>			
<b>ESF TRUST EXPENDITURES</b>			
<b>95-4193-4200 PROFESSIONAL SERVICES</b>			
KETCHUM COMPUTERS, INC.	18401	Oct 21 New City Hall	19,081.25
<b>95-4193-7201 FUTURE ESF CITY HALL</b>			
CHEM-DRY OF SOUTHERN ID	13092	Steam Clean x42 Black Chairs	420.00
US BANK	2745 102521	Lowes: New City Hall Purchases	955.98
US BANK	2745 102521	Costco: TV's & Insurance	1,976.74
US BANK	2745 102521	Provantage: Cable Connectors	21.88
US BANK	2745 102521	The Flag Factory: Flag, Wall Mount	528.70
US BANK	2745 102521	Lowes: RETURN	899.00
US BANK	2745 102521	Wood River Lock	27.54
US BANK	6235 102521	Amazon: Cork Board	664.53
US BANK	6235 102521	Amazon: Intel Ultra Small Mini	1,112.00
US BANK	6235 102521	Amazon: TV Mounting Bracket, Wireless Keyboard & Mouse	125.96
US BANK	6235 102521	Home Depot: Dishwasher	739.88
US BANK	6235 102521	Bozzutos Furniture: Fridge	1,144.00
US BANK	6235 102521	My House Furnishings	892.08
US BANK	7646 102521	CREDIT	2,507.12
US BANK	9988 102521	Lowes: Commercial Grade Tarp	56.98
US BANK	9988 102521	Costco: TV for Chambers	1,500.00
CSHQA	36013	New City Hall Design	14,509.12
Total ESF TRUST EXPENDITURES:			40,350.52
Total ESSENTIAL SERVICES FAC. TRUST:			40,350.52
Grand Totals:			459,811.07

Vendor Name

Invoice Number

Description

Net Invoice Amount

---

Report Criteria:

Invoices with totals above \$0 included.

Only unpaid invoices included.

[Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"

Invoice Detail.Voided = No, Yes

---



City of Ketchum

November 15, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Recommendation to Approve Alcohol Beverage License**

Recommendation and Summary

Staff is recommending the council to approve the license and adopt the following motion:

*I move to approve Alcohol Beverage Licenses for the applicants included in the staff report.*

The reasons for the recommendation are as follows:

- Ketchum Municipal Code Requires certain licenses to sell liquor, beer or wine.
- At this time, the application is for the period of November 18, 2021 – August 31, 2022, the Council approval is requested to complete the process of issuing such beer, wine and liquor licenses.

Introduction and History

In accordance with Municipal Code 5.04.020, Alcoholic Beverage Sales, it is unlawful for any person to sell liquor, beer, or wine at retail or by the drink within the City without certain licenses as required pursuant to Ordinance 367. All City licenses for liquor, beer, and wine expire annually and require renewal by September 1<sup>st</sup>. The businesses will be vending beer, wine and liquor on premise (wine is included in the liquor fees) and not to be consumed on premise, per application.

Analysis

At this time, the following businesses have filed for their license and Council approval is requested to complete the process of issuing such beer, wine and liquor licenses.

Financial Impact

- The City of Ketchum will realize revenue of \$157.30 from approval of these licenses in accordance with the current fee structure.

<u>Company</u>	<u>Beer Consumed on Premises</u>	<u>Beer Not to be Consumed on Premises</u>	<u>Wine Consumed on Premises</u>	<u>Wine Not to be Consumed on Premises</u>	<u>Liquor or</u>	<u>Total Amount of Fees Paid</u>
Scout Wine & Cheese				x		\$157.30

Sincerely,

Shellie Rubel

Treasurer

Attachments: Alcohol applications



City of Ketchum

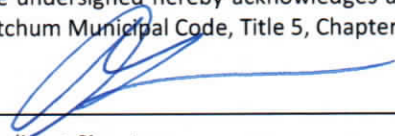
**Beer, Wine & Liquor-by-the Drink License Application**

Submit completed application and fees below to the City Clerk Office, PO Box 2315, 480 East Ave. N., Ketchum, ID 83340. If you have questions, please contact Business License & Tax Specialist, Kathleen Schwartzenberger at [taxes@ketchumidaho.org](mailto:taxes@ketchumidaho.org) or (208) 726-3841.

APPLICANT INFORMATION		
Applicant Name: Scout Wine & Cheese, LLC		Doing Business As: Scout Wine & Cheese
Physical Address where license will be displayed: 481 Bell Drive, Suite A, Ketchum, ID 83340		
Mailing Address: 229 Greenhorn Road, Hailey, ID 83333		
Recorded Owner of Property: Kevin Syms		
Applicant Phone Number: 310-508-3082		Applicant Email: dianne.dillingham@gmail.com
STATE LICENSE NO: 31762	(copy required)	COUNTY LICENSE NO: 130 (copy required)
Corporation: <input type="checkbox"/> Partnership: <input checked="" type="checkbox"/> Individual: <input type="checkbox"/> If Applicant is a Partnership or Corporation, is the corporation authorized to do business in Idaho? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	List names and addresses of corporation officers and/or partners: Dianne Dillingham; 229 Greenhorn Road, Hailey, ID 83333 _____ _____ _____	
BEER LICENSE FEES		
<input checked="" type="checkbox"/>	Draft or Bottled or Canned Beer to be consumed on premises	\$200.00
<input checked="" type="checkbox"/>	Bottled or Canned Beer NOT to be consumed on premises	\$ 50.00
WINE LICENSE FEES		
<input checked="" type="checkbox"/>	Wine, to be consumed on premises	\$200.00
<input checked="" type="checkbox"/>	Wine, NOT to be consumed on premises	\$200.00
LIQUOR LICENSE FEES		
<input checked="" type="checkbox"/>	Liquor by the Drink (Note: Liquor fee includes wine)	\$560.00
Total Fees Due		<del>\$400.00</del> 157.30
ADDITIONAL INFORMATION		
Has the applicant, any partners of the applicant, any member of the applying partnership, the active manager of the applying partnership or any officer of the applying corporation been convicted of a violation of any law of the State of Idaho, or any other state, or of the United States regulating, governing, or prohibiting the sale of alcoholic beverages or intoxication liquor, and has any one of them within the last three years forfeited or suffered the forfeiture of a bond for his/her appearance to answer charges of any such violation? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Has the applicant or any partner or actual active manager or officer of the applicant been convicted of any felony within the last five years? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, its officers and employees from all liability claims, suits and costs arising from incidents or accidents occurring under this permit. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

The undersigned hereby acknowledges and consents that the License(s) requested are subject to the provisions of the Ketchum Municipal Code, Title 5, Chapter 5.04 (amended by Ordinance 882), City of Ketchum, Idaho, Blaine County.

  
\_\_\_\_\_  
Applicant Signature

**Manager**  
\_\_\_\_\_  
Relation to Business

**October 5, 2021**  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
City Clerk or Deputy Signature

OFFICIAL USE ONLY		
Date Received: <u>10/13/21</u>	License Fee Paid <u>CK# 43115</u>	License No: <u>6968A</u>
To the City Council, Ketchum, Idaho; The undersigned, a Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Individual <input type="checkbox"/> , does hereby make application for a license to sell during the year of <del>August 1, 2021, to July 31, 2022</del> <u>November 18, 2021 - August 31, 2022</u>		
Approved by City of Ketchum Idaho by;  _____ Mayor		

↙ on hold for BL approval

Approval



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To**

#### Recommendation and Summary

Staff is recommending the council to approve purchase order # 22031 with Ferguson Water Works for water meters, meter vaults, and meter radios needed for replacing old failing meters/radios, re-stocking inventory, future development and adopt the following motion:

I recommend that Council approve purchase order #22031 with Ferguson Water Works of Twin Falls ID in not to exceed the amount of \$50,000 for the purchase of water meters, vaults, and meter radios needed for replacement, inventory re-stock, and future development.

The reasons for the recommendation are as follows:

- Lack of Supplies Nationally, current backorder wait times on these supplies is 42-52 weeks out
- Due to the supply chain shortages, we need to be ready for purchasing these items as they arrive at Ferguson's warehouse. These items have been on order since this summer, and we cannot afford to miss our opportunity to get them purchased because of the chance they get off loaded to other municipalities that are also in need.
- Lack of Inventory to supply the ever-growing development within the City of Ketchum, and the failing older style meters and radio's that can't be repaired due to the contents of lead.

#### Introduction and History

This is part of our ongoing meter replacement program for failing and antiquated meters and radios within our system. Also, to increase inventory if the supply shortage remains in its current state.

#### Analysis

With Supply shortages the way they are, we need to be more stringent on Proactivity than Reactivity.



Sustainability

The recommended action will further the goals of the 2021 Ketchum Sustainability Action Plan in the following ways:

- Continuing the upgrading and proficiency of our system.

Financial Impact

This is a planned and budgeted expense that will be drawn from our FY 21-22 budget.

Attachments:

Purchase order # 22031

Respectfully Submitted.



Gio Tognoni  
Water Division Supervisor/Manager



**CITY OF KETCHUM**  
 PO BOX 2315 \* 480 EAST AVE. \* KETCHUM, ID 83340  
 Administration 208-726-3841 (fax) 208-726-8234

**PURCHASE ORDER**  
 BUDGETED ITEM?  Yes  No

**PURCHASE ORDER - NUMBER: 22031**

<b>To:</b> 2052 FERGUSON ENTERPRISES, LLC #1701 P.O. BOX 802817 CHICAGO IL 60680-2817	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
11/10/2021	kchoma	kchoma		0	

Quantity	Description	Unit Price	Total
1.00	NEW WATER METERS AND METER VA 64-4340-7650 0	30,000.00	30,000.00
1.00	NEW WATER METERS AND METER VA 64-4340-7653 0	20,000.00	20,000.00
SHIPPING & HANDLING			0.00
TOTAL PO AMOUNT			50,000.00

\_\_\_\_\_  
 Authorized Signature



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Approve Purchase Order # for \$30,589 for Ford Pickup.**

#### Recommendation and Summary

Staff is recommending the council Adopt the following Resolution:

**"I move to approve purchase order #22032 in the amount of \$30,588 and authorize the Mayor to sign said purchase order."**

The reasons for the recommendation are as follows:

- This vehicle was included in the approved annual budget.
- The vehicle will replace a 2004 Ford Expedition.

#### Introduction and History

The fire department operates two command vehicles. One is at end of expected service life. This vehicle will replace that 2004 Ford Expedition, and will improve capabilities by providing additional room for equipment. State bid for of a replacement Expedition came in over \$10,000 higher than the pickup cost.

#### Analysis

The vehicle is available on state bid, at a 30% savings from MSRP.

#### Sustainability Impact

At this time, neither hybrid nor electric vehicles are available in this class.

#### Financial Impact

The quote is within the budget for the project.

#### Attachments

Purchase Order 22032

Mountain Home Auto Ranch quote

**Acceptance**

---

Neil Bradshaw, Mayor  
City of Ketchum



**G R O U P**

**FLEET**

**OUT THE DOOR QUOTE FROM MOUNTAIN HOME AUTO RANCH**

MODEL	MAKE	YEAR
F-250 XL SUPER CAB 4WD 6.75' BOX	FORD	2022
FLEET BASE PRICING	\$	28,013.00
OPTIONS	\$	2,575.00
STATE ADMIN FEE	\$	-
Your Price	\$	30,588.00

PURCHASER: CITY OF KETCHUM  
 PIGGYBACKED OFF OF: CITY OF BOISE CONTRACT

Vernon 'Butch' Wade

208-249-1330 Cell

Email: [vernonwade@msn.com](mailto:vernonwade@msn.com)

OKAY TO ORDER PER SPECS


NUMBER OF UNTIS

CONTACT

BILL MCLAUGHIN

PHONE NUMBER

208-727-5074 OFFICE  
 360-472-1553 CELL

Vehicle: [Fleet] 2022 Ford Super Duty F-250 SRW (X2B) XL 4WD SuperCab 6.75' Box (  Complete )

**Selected Model and Options**

**MODEL**

CODE	MODEL	Invoice
X2B	2022 Ford Super Duty F-250 SRW XL 4WD SuperCab 6.75' Box	\$38,309.00

**COLORS**

CODE	DESCRIPTION
PQ	Race Red

**ENGINE**

CODE	DESCRIPTION	Invoice
996	Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel (STD)	\$0.00

**TRANSMISSION**

CODE	DESCRIPTION	Invoice
44S	Transmission: TorqShift-G 6-Spd Auto w/SelectShift (STD)	\$0.00

**OPTION PACKAGE**

CODE	DESCRIPTION	Invoice
600A	Order Code 600A	\$0.00

**AXLE RATIO**

CODE	DESCRIPTION	Invoice
X3E	Electronic-Locking w/3.73 Axle Ratio	\$355.00

**WHEELS**

CODE	DESCRIPTION	Invoice
64A	Wheels: 17" Argent Painted Steel -inc: painted hub covers/center ornaments (STD)	\$0.00


**TIRES**

CODE	DESCRIPTION	Invoice
TBM	Tires: LT245/75Rx17E BSW A/T -inc: Spare may not be the same as road tire	\$150.00

**PRIMARY PAINT**

CODE	DESCRIPTION	Invoice
PQ	Race Red	\$0.00

Prices, specifications, and availability are subject to change without notice, and do not include certain fees, taxes and charges that may be required by law or vary by manufacturer or region. Performance figures are guidelines only, and actual performance may vary. Photos may not represent actual vehicles or exact configurations. Content based on report preparer's input is subject to the accuracy of the input provided. Data Version: 15120, Data updated Nov 11, 2021 1:07:00 AM PST

Vehicle: [Fleet] 2022 Ford Super Duty F-250 SRW (X2B) XL 4WD SuperCab 6.75' Box (  Complete )

**SEAT TYPE**

CODE	DESCRIPTION	Invoice
1S	Medium Earth Gray, Cloth 40/20/40 Split Bench Seat -inc: center armrest, cupholder, storage and driver's side manual lumbar	\$91.00

**ADDITIONAL EQUIPMENT - PACKAGE**

CODE	DESCRIPTION	Invoice
17X	FX4 Off-Road Package -inc: Hill Descent Control, Off-Road Specifically Tuned Shock Absorbers, front/rear, Transfer Case & Fuel Tank Skid Plates, Unique FX4 Off-Road Box Decal	\$364.00
90L	Power Equipment Group -inc: Deletes passenger-side lock cylinder, upgraded door trim panel, Accessory Delay, Advanced Security Pack, SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors, Power Locks, Remote Keyless Entry, Trailer Tow Mirrors w/Power Heated Glass, manual folding, manually telescoping, heated convex spotter mirror and integrated clearance lamps and turn signals, Power Front & Rear Seat Windows, 1-touch up/down driver/passenger window, Power Tailgate Lock	\$832.00

**ADDITIONAL EQUIPMENT - MECHANICAL**

CODE	DESCRIPTION	Invoice
41P	Transfer Case & Fuel Tank Skid Plates	Inc.
52B	Trailer Brake Controller -inc: Verified to be compatible w/select electric over hydraulic brakes, smart trailer tow connector	\$245.00
67E	240 Amp Alternator	\$78.00
86M	Dual 78 AH Battery	\$191.00

**ADDITIONAL EQUIPMENT - EXTERIOR**

CODE	DESCRIPTION	Invoice
153	Front License Plate Bracket -inc: Standard in states requiring 2 license plates and optional to all others	\$0.00

**ADDITIONAL EQUIPMENT - INTERIOR**

CODE	DESCRIPTION	Invoice
18A	Upfitter Interface Module	\$269.00
<b>Options Total</b>		<b>\$2,575.00</b>

Prices, specifications, and availability are subject to change without notice, and do not include certain fees, taxes and charges that may be required by law or vary by manufacturer or region. Performance figures are guidelines only, and actual performance may vary. Photos may not represent actual vehicles or exact configurations. Content based on report preparer's input is subject to the accuracy of the input provided. Data Version: 15120, Data updated Nov 11, 2021 1:07:00 AM PST



**CITY OF KETCHUM**  
**PO BOX 2315 \* 480 EAST AVE. \* KETCHUM, ID 83340**  
**Administration 208-726-3841 (fax) 208-726-8234**

**PURCHASE ORDER**  
 BUDGETED ITEM? \_\_\_ Yes \_\_\_ No

**PURCHASE ORDER - NUMBER: 22032**

<b>To:</b> 5021 MOUNTAIN HOME AUTO RANCH 2800 AMERICAN LEGION BLVD. MOUNTAIN HOME ID 83647	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
11/12/2021	kchoma	kchoma		0	

Quantity	Description	Unit Price	Total
1.00	FORD F250 4x4 03-4230-7100	30,588.00	30,588.00
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		30,588.00

\_\_\_\_\_  
 Authorized Signature





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Enter into Contract 22029 with Friends of the Sawtooth Avalanche Center**

#### Recommendation and Summary

Staff is recommending the council approve the annual contract with Friends of the Sawtooth Avalanche Center (FSAC) and adopt the following motion:

**"I move to approve Contract 22029 with Friends of the Sawtooth Avalanche Center."**

The reasons for the recommendation are as follows:

- The primary reason for the City to enter this contract is to support the FSAC's and Sawtooth Avalanche Center's (SAC) shared mission to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest.
- The funding was approved in the FY22 adopted budget.

#### Introduction and History

The proposed contract is new this fiscal year – FSAC was previously supported by the Fire Department.

#### Analysis

The City's contribution will fund the Daily Avalanche Forecasts – a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with the professional and business community such as Blaine County Search and Rescue, law enforcement and fire departments.

#### Sustainability

None.

#### Financial Impact

The cost for services is \$4,000 for the year and funding will be allocated from the Local Option Tax Account within the approved FY22 budget.

#### Attachments

Proposed Contract #22029

Attachment A: Funding request

## CONTRACT FOR SERVICES 22029

THIS AGREEMENT, made and entered into this 18<sup>th</sup> day of November 2021, by and between the CITY OF KETCHUM, IDAHO, (hereinafter referred to as "the City") and the FRIENDS OF THE SAWTOOTH NATIONAL FOREST AVALANCHE CENTER, an Idaho nonprofit corporation with an IRS 501 (c)(3) designation, (hereinafter referred to as "FSAC").

### FINDINGS

1. Ketchum is a municipal corporation duly organized and existing under the laws of the State of Idaho.
2. FSAC is an Idaho non-profit organization with an IRS 501(c)(3) designation engaged in the business of supporting the Sawtooth Avalanche Center's mission of promoting life-saving avalanche safety information, education and outreach.
3. Ketchum is a destination resort city as defined by Idaho Code § 50-1044 as it derives a major portion of its economic wellbeing from businesses catering to the recreational needs and meeting the needs of people traveling to the Sun Valley area. As a resort city, Ketchum is eligible to and does collect a local option non-property tax.
4. Pursuant to Idaho Code § 50-301 and § 50-302, Ketchum is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City and its trade, commerce and industry. Accordingly, Ketchum has the power as conferred by the State of Idaho, to provide directly for certain promotional activities to enhance the trade, commerce, industry, and economic well-being of the City.
5. The primary reason for the City to enter this contract is to support the FSAC's and Sawtooth Avalanche Center's (SAC) shared mission to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest. The City's contribution will fund the Daily Avalanche Forecasts – a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with the professional and business community such as Blaine County Search and Rescue, law enforcement and fire departments.
6. Ketchum has committed \$4,000 towards this contract for services in the FY22 budget.
7. FSAC desires to enter into an agreement with Ketchum to provide services identified in Attachment A.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, it is agreed by and between the City and the FSAC as follows:

1. **SERVICES RECEIVED.** FSAC agrees to provide those services identified in Attachment A as an independent contractor. FSAC agrees that it shall provide, at its sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, liability insurance, fidelity bonds, and all necessary equipment and facilities required to provide the services as set forth in this Agreement.
2. **TERM.** The term of this Agreement shall commence October 1, 2021 and shall terminate on the 30<sup>th</sup> day of September 2022.

3. **CONSIDERATION.** In consideration for providing the services described in Attachment A, the City agrees to pay to FSAC the total sum of FOUR THOUSAND DOLLARS payable in agreed one lump sum. FSAC will provide the City an invoice; the City shall pay FSAC the amount set forth in such invoice no later than thirty (30) days after the date of such invoice.

4. **REPORTING.** FSAC agrees to report to the Ketchum City Council via an annual report.

5. **TERMINATION.** The City may terminate this Contract with 120 days written notice to FSAC with or without cause. The City reserves the right to request an independent audit under the provisions herein upon termination, and such audit obligation and cost on the part of FSAC shall survive any termination of this Contract.

6. **EQUAL EMPLOYMENT OPPORTUNITY.** FSAC covenants that it shall not discriminate against any employee, volunteer, or applicant for employment because of race, religion, color, sex, or national origin.

7. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge and agree that FSAC shall provide its services for the fee specified herein in the status of independent contractor, and not as an employee of the City. FSAC shall create, direct, and control its own means and methods of performing this Agreement. FSAC and its agents, members, employees, and volunteers, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the City. The sole interest and responsibility of the City under this Agreement is to assure itself that the services covered by this Agreement shall be performed and rendered by FSAC in a competent, efficient and satisfactory manner.

8. **HOLD HARMLESS AGREEMENT.** Any contractual obligation entered into or assumed by FSAC, or any liability incurred by reason of personal injury and/or property damage in connection with or arising out of FSAC's obligations pursuant to this Agreement shall be the sole responsibility of FSAC, and FSAC covenants and agrees to indemnify and hold the City harmless from any and all claims or causes of action arising out of FSAC's activities and obligations as set forth hereinabove, including, but not limited to, personal injury, property damage, and employee complaints.

9. **NON-ASSIGNMENT.** This Agreement may not be assigned by or transferred by FSAC, in whole or in part, without the prior written consent of the City.

10. **DISPUTES:** In the event that a dispute arises between the City and FSAC regarding application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within ten (10) days after such dispute arises. If the parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the parties agree to first endeavor to seek to settle the dispute in an amicable manner by non-binding mediation before resorting to litigation. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.

11. **MISCELLANEOUS PROVISIONS.**

- a. Paragraph Headings. 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 of the provisions of the Agreement.

- b. Provisions Severable. 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. Rights and Remedies are Cumulative. 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 nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- d. Successor and Assigns. This Agreement and the terms and provision hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.
- e. Entire Agreement. 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. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Idaho. Venue shall be in Blaine County, Idaho.
- g. Preparation of Agreement. 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.
- h. No Waiver. 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.
- i. Amendment. No amendment of this Agreement shall be effective unless the amendment is in writing, signed by each of the parties.
- j. Notices. Notices hereunder shall be by personal delivery or US Mail Certified/Return Receipt and shall be deemed effective upon such personal delivery or two (2) business days after mailing, whichever is later. Notices shall be provided as follows:

a. City:                   City Administrator  
                                   City of Ketchum  
                                   P.O. Box 2315  
                                   Ketchum, ID 83340

b. Consultant: Friends of the Sawtooth Avalanche Center  
                                   PO Box 2669  
                                   Ketchum, ID 83340

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

CITY OF KETCHUM, IDAHO

FRIENDS OF THE SAWOOTH AVALANCHE CENTER

By: \_\_\_\_\_  
Neil Bradshaw  
Mayor

By:  \_\_\_\_\_  
Steph Eisenbarth  
Executive Director

ATTEST:

\_\_\_\_\_  
Tara Fenwick  
City Clerk



City of Ketchum

<b>Agency Name:</b>	Friends of the Sawtooth National Forest Avalanche Center (FSAC)
<b>Project Name:</b>	Daily Forecast Sponsor
<b>Contact Person:</b>	Stephanie Eisenbarth, FSAC Executive Director
<b>Address:</b>	PO Box 2669, Ketchum, ID 83340
<b>Email:</b>	avycenterfriends@gmail.com
<b>Phone Number:</b>	208-720-3242

Please provide the information requested below and return via email to [aswindley@ketchumidaho.org](mailto:aswindley@ketchumidaho.org) no later than end of day, **Monday, May 10, 2021** / prior to the City Council’s first Budget Strategic Session on May 11, 2021. The Council will not be reviewing the details per application on May 11<sup>th</sup> but rather will be presented with an overall summary of all requests.

If you have any supporting documents or if additional space is needed – or any additional information you would like the City to consider – please feel free to attach.

If any of the below items do not apply to your request, please indicate with N/A.

1. Amount requested for fiscal year 2022: \$ 4,000.00
2. What percentage of your overall budget does the requested amount represent? 3 %
3. Please list your primary funding sources other than the City and the percentage of your budget they represent:

Funding Source	% of Budget
Additional Daily Avalanche Forecast Sponsors	18%
Secured Family Foundation Contributions	20%
Secured Grants	15%
Fall Mail Campaign (individual donations) - based on 2020	22.5%
Anticipated Event Income - based on 2019	21.5%

4. How would your program or project be impacted if it did not receive funding from the City or if funding were reduced?

Avalanches are responsible for more deaths than any other natural hazard on federally owned lands (USFS, BLM). Avalanche fatalities severely impact the victims' family and friends and can tear the social fabric of entire communities. The FSAC's and SAC's shared mission is to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest. The Daily Avalanche Forecasts are a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with our professional and business community, such as Blaine County Search & Rescue, law enforcement and fire departments, snow removal and landscape services, backcountry guiding groups, and backcountry gear retailers. Our local avalanche center truly is a community effort, and reduced funding could impact our ability to meet our mission. The Daily Avalanche Forecasts truly are our most important resource to help our mountain community remain

5. Does your program or project have a strategic/business plan in place? Yes \_\_\_\_\_ No X  
If yes, please attach a copy upon submission.
6. If you received funds from the City in fiscal year 2021, please provide specific examples of how those funds were used to benefit the community.

For many, many years the City of Ketchum through the fire department sponsored the SAC Daily Avalanche Forecast. Unfortunately, last year due to COVID-19 financial impacts, the City suspended that support for this past season. We are hoping that the City is able to resume the partnership with the FSAC moving forward.

7. If you receive funds from the City in fiscal year 2022, please provide specific goals set by your organization.

The FSAC's and SAC's shared mission is to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest. The FSAC's primary goal is to continue to provide funding for the SAC so that it may continue to provide reliable, accurate and actionable avalanche and weather information to the public; this includes an expanded forecast territory, improved social media outreach, and continued website improvements. The Daily Avalanche Forecast is our most important resource for sharing critical information with the public in order to save lives. A second goal, based on overwhelming participation in our virtual avalanche safety courses this season, is to move forward with hybrid educational offerings (streaming live classes). Finally, we intend to facilitate a second public beacon practice facility in the WRV.

**4. How would your program or project be impacted if it did not receive funding from the City or if funding were reduced?**

Avalanches are responsible for more deaths than any other natural hazard on federally owned lands (USFS, BLM). Avalanche fatalities severely impact the victims family and friends and can tear the social fabric of entire communities. The FSAC's and SAC s shared mission is to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest. The Daily Avalanche Forecasts are a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with our professional and business community such as Blaine County Search & Rescue, law enforcement and fire departments, snow removal and landscape services, backcountry guiding groups, and backcountry gear retailers. Our local avalanche center truly is a community effort, and reduced funding could impact our ability to meet our mission. The Daily Avalanche Forecasts truly are our most important resource to help our mountain community remain safe during the winter months.





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Enter into Contract 22028 with Idaho Dark Sky Alliance**

#### Recommendation and Summary

Staff is recommending the council approve the annual contract with Idaho Dark Sky Alliance (ISDA) and adopt the following motion:

**"I move to approve Contract 22028 with Idaho Dark Sky Alliance."**

The reasons for the recommendation are as follows:

- The primary reason for the City to enter this contract is to support the IDSA's monitoring and maintenance of the Central Idaho Dark Sky Reserve.
- The funding was approved in the FY22 adopted budget.

#### Introduction and History

The CIDSR was certified in December 2017 by the International Dark Sky Association (IDA). Certification required that the CIDSR agree to implement all the IDA requirements to become a Dark Sky Reserve. One of these requirements is that "Municipalities, management entities, and partners within the Reserve agree to establish interpretive outreach programs to support the goals of the Reserve and educate visitors and residents about the importance of preserving the dark night sky resource."

IDSA is an Idaho non-profit corporation with an IRS 501(c)(3) designation engaged in the business of fundraising and day-to-day operations of the Central Idaho Dark Sky Reserve (CIDSR). IDSA functions under the CIDSR Oversight Group (Blaine County, Ketchum, Stanley, Sun Valley, and the Sawtooth National Forest). The Alliance proposes and implements projects that accomplish portions of the Reserve's Lightscape Management Plan. While Ketchum has had a seat on the Oversight group for years, the proposed contract is new this year.

#### Sustainability

Approval of contract will assist with the maintenance of the CIDSR while also supporting education and outreach efforts to our community and visitors.

#### Financial Impact

The cost for services is \$2,200 for the year and funding will be allocated from the Local Option Tax Account within the approved FY22 budget.

#### Attachments

Proposed Contract #22028

Attachment A: Funding request

## CONTRACT FOR SERVICES 22028

THIS AGREEMENT, made and entered into this 18<sup>th</sup> day of November 2021, by and between the CITY OF KETCHUM, IDAHO, (hereinafter referred to as "the City") and the IDAHO DARK SKY ALLIANCE, an Idaho nonprofit corporation with an IRS 501 (c)(3) designation, (hereinafter referred to as "IDSA").

### FINDINGS

1. Ketchum is a municipal corporation duly organized and existing under the laws of the State of Idaho.
2. IDSA is an Idaho non-profit corporation with an IRS 501(c)(3) designation engaged in the business of fundraising and day-to-day operations of the Central Idaho Dark Sky Reserve (CIDSR). IDSA functions under the CIDSR Oversight Group (Blaine County, Ketchum, Stanley, Sun Valley, and the Sawtooth National Forest). The Alliance proposes and implements projects that accomplish portions of the Reserve's Lightscape Management Plan.
3. Ketchum is a destination resort city as defined by Idaho Code § 50-1044 as it derives a major portion of its economic wellbeing from businesses catering to the recreational needs and meeting the needs of people traveling to the Sun Valley area. As a resort city, Ketchum is eligible to and does collect a local option non-property tax.
4. Pursuant to Idaho Code § 50-301 and § 50-302, Ketchum is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City and its trade, commerce and industry. Accordingly, Ketchum has the power as conferred by the State of Idaho, to provide directly for certain promotional activities to enhance the trade, commerce, industry, and economic well-being of the City.
5. The primary reason for the City to enter this contract is to support the monitoring and maintenance of the CIDSR. The CIDSR was certified in December 2017 by the International Dark Sky Association (IDA). Certification required that the CIDSR agree to implement all of the IDA requirements to become a Dark Sky Reserve. One of these requirements is that "Municipalities, management entities, and partners within the Reserve agree to establish interpretive outreach programs to support the goals of the Reserve, and educate visitors and residents about the importance of preserving the dark night sky resource."
6. Ketchum has committed \$2,200 towards this contract for services in the FY22 budget.
7. IDSA desires to enter into an agreement with Ketchum to provide services identified in Attachment A.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, it is agreed by and between the City and the IDSA as follows:

1. **SERVICES RECEIVED.** IDSA agrees to provide those services identified in Attachment A as an independent contractor. IDSA agrees that it shall provide, at its sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, liability insurance, fidelity bonds, and all necessary equipment and facilities required to provide the services as set forth in this Agreement.

2. **TERM.** The term of this Agreement shall commence October 1, 2021 and shall terminate on the 30<sup>th</sup> day of September 2022.

3. **CONSIDERATION.** In consideration for providing the services described in Attachment A, the City agrees to pay to IDSA the total sum of TWO THOUSAND TWO HUNDRED DOLLARS (\$2,200.00) payable in one lump sum. IDSA will provide the City an invoice; the City shall pay IDSA the amount set forth in such invoice no later than thirty (30) days after the date of such invoice.

4. **REPORTING.** IDSA agrees to report to the Ketchum City Council via it's submitted annual report to the IDA.

5. **TERMINATION.** The City may terminate this Contract with 120 days written notice to IDSA with or without cause. The City reserves the right to request an independent audit under the provisions herein upon termination, and such audit obligation and cost on the part of IDSA shall survive any termination of this Contract.

6. **EQUAL EMPLOYMENT OPPORTUNITY.** IDSA covenants that it shall not discriminate against any employee, volunteer, or applicant for employment because of race, religion, color, sex, or national origin.

7. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge and agree that IDSA shall provide its services for the fee specified herein in the status of independent contractor, and not as an employee of the City. IDSA shall create, direct, and control its own means and methods of performing this Agreement. IDSA and its agents, members, employees, and volunteers, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the City. The sole interest and responsibility of the City under this Agreement is to assure itself that the services covered by this Agreement shall be performed and rendered by IDSA in a competent, efficient and satisfactory manner.

8. **HOLD HARMLESS AGREEMENT.** Any contractual obligation entered into or assumed by IDSA, or any liability incurred by reason of personal injury and/or property damage in connection with or arising out of IDSA's obligations pursuant to this Agreement shall be the sole responsibility of IDSA, and IDSA covenants and agrees to indemnify and hold the City harmless from any and all claims or causes of action arising out of IDSA's activities and obligations as set forth hereinabove, including, but not limited to, personal injury, property damage, and employee complaints.

9. **NON-ASSIGNMENT.** This Agreement may not be assigned by or transferred by IDSA, in whole or in part, without the prior written consent of the City.

10. **DISPUTES:** In the event that a dispute arises between the City and IDSA regarding application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within ten (10) days after such dispute arises. If the parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the parties agree to first endeavor to seek to settle the dispute in an amicable manner by non-binding mediation before resorting to litigation. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.

11. **MISCELLANEOUS PROVISIONS.**

- a. Paragraph Headings. 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 of the provisions of the Agreement.
- b. Provisions Severable. 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. Rights and Remedies are Cumulative. 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 nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- d. Successor and Assigns. This Agreement and the terms and provision hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.
- e. Entire Agreement. 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. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Idaho. Venue shall be in Blaine County, Idaho.
- g. Preparation of Agreement. 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.
- h. No Waiver. 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.
- i. Amendment. No amendment of this Agreement shall be effective unless the amendment is in writing, signed by each of the parties.
- j. Notices. Notices hereunder shall be by personal delivery or US Mail Certified/Return Receipt and shall be deemed effective upon such personal delivery or two (2) business days after mailing, whichever is later. Notices shall be provided as follows:

a. City: City Administrator  
City of Ketchum  
P.O. Box 2315  
Ketchum, ID 83340

b. Consultant: Idaho Dark Skies Alliance  
PO Box 4903  
Ketchum, ID 83340

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

CITY OF KETCHUM, IDAHO

IDAHO DARK SKY ALLIANCE

By: \_\_\_\_\_  
Neil Bradshaw  
Mayor

By:  \_\_\_\_\_  
Carol Cole  
President

ATTEST:

\_\_\_\_\_  
Tara Fenwick  
City Clerk



## City of Ketchum

CX

**Agency Name:** Idaho Dark Sky Alliance for Central Idaho Dark Sky Reserve (CIDSR)  
**Project Name:** Educational Outreach, Light Pollution Monitoring, and Data Management  
**Contact Person:** Carol Cole or Steve Botti  
**Address:** PO Box 4903, Ketchum ID 83340  
**Email:** [idahodarksky@gmail.com](mailto:idahodarksky@gmail.com)  
**Phone Number:** Carol 208-721-2303, Steve 208-608-8739

Please provide the information requested below and return via email to [aswindley@ketchumidaho.org](mailto:aswindley@ketchumidaho.org) no later than end of day, **Monday, May 10, 2021** / prior to the City Council's first Budget Strategic Session on May 11, 2021. The Council will not be reviewing the details per application on May 11<sup>th</sup> but rather will be presented with an overall summary of all requests.

If you have any supporting documents or if additional space is needed – or any additional information you would like the City to consider – please feel free to attach.

If any of the below items do not apply to your request, please indicate with N/A.

- Amount requested for fiscal year 2022:** \$ \$2200 (\$1,500 Education and Outreach Program Support, including signage, and \$700 for light pollution monitoring)
- What percentage of your overall budget does the requested amount represent?** 18 %
- Please list your primary funding sources other than the City and the percentage of your budget they represent:**

Funding Source	% of Budget
Blaine County (requested)	25%
City of Sun Valley (requested)	17%
City of Stanley (requested)	15%
Chambers of Commerce (Stanley Chamber committed)	15%
Idaho Dark Sky Alliance (committed)	10%

**4. How would your program or project be impacted if it did not receive funding from the City or if funding were reduced?**

If City of Ketchum funds are not received it will be difficult to implement a Dark Sky monitoring program to the IDA standard required to properly assess the level of light pollution in the Reserve and the threats posed by this pollution. It also will be more difficult to properly assess the threats posed by this pollution and the effectiveness of the Reserve efforts to mitigate this pollution.

In addition, it would be difficult to achieve the level of education and outreach required to allow the public to fully enjoy the Reserve and understand the significance of preserving the naturally dark night environment.

**5. Does your program or project have a strategic/business plan in place? Yes  No  If yes, please attach a copy upon submission.**

While the Idaho Dark Sky Alliance does not yet have a formal strategic plan, we continue to use the Lightscape Management Plan submitted to IDA as part of the application for designation as a guide for our initial actions. The IDA application required detailed information about planned actions and programs. At the time of designation, the Dark Sky Reserve committed to implementing specific actions within a five-year timeline. (see attached timeline)

The Idaho Dark Sky Alliance was created as a nonprofit organization in 2020 to help manage the fund-raising and day-to-day operations of the Reserve. It functions under the general direction of the CIDSR Oversight Group (Blaine County, Ketchum, Stanley, Sun Valley, and the Sawtooth National Forest). The Alliance proposes and implements projects that accomplish portions of the Reserve's Lightscape Management Plan.

Currently, we have a Board of Directors and basic officers, all of whom are volunteers. It is not a membership organization, but works closely with interested stakeholders, such as the Idaho Conservation League, and private individuals.

**6. If you received funds from the City in fiscal year 2021, please provide specific examples of how those funds were used to benefit the community.**

N/A

**7. If you receive funds from the City in fiscal year 2022, please provide specific goals set by your organization.**

Outreach and Education:

The Central Idaho Dark Sky Reserve (CIDSR) was certified in December 2017 by the International Dark Sky Association (IDA). Certification required that the CIDSR agree to implement all of the IDA requirements to become a Dark Sky Reserve. One of these requirements is that *"Municipalities, management entities, and partners within the Reserve agree to establish interpretive outreach programs to support the goals of the Reserve, and educate visitors and residents about the importance of preserving the dark night sky resource."*

Since 2017 the Reserve has offered a range of interpretive programs led by astronomers and other subject matter experts. To supplement and expand upon these efforts, the Alliance would like to begin establishing a network of interpretive signs and permanent exhibits. These will be strategically placed in easily accessible locations such as roadsides, campgrounds, trails, visitor centers, and developed commercial areas to provide information about astronomy, the importance of dark night sky to maintaining healthy ecosystems, and dark sky friendly outdoor lighting.

Other outreach and education opportunities include:

- Creating relationships with professional groups (architects, engineers, store owners) to develop displays and/or continuing education seminars for building professionals.
- Creating relationships with university scientists and astronomy/environmental professionals to utilize their expertise and to develop programs and advocacy on astronomy and the night sky.
- Working with local tourism groups (local Chambers of Commerce, Visit Sun Valley, local outfitters, lodging providers) to educate and excite them about the economic potential of Dark Skies tourism.
- Exploring opportunities with Sun Valley Lodge, Galena Lodge, Smiley Creek Lodge, Idaho Rocky Mountain Ranch, Redfish Lake Lodge and others that could host events.
- Developing a modular/traveling exhibit for use at local events and promotions to provide information about dark sky benefits and responsibilities, light pollution, and how to get involved.
- Establishing a collection of educational and presentation materials that can be used for programs with schools, youth organizations (camps, scouts, 4H), and civic groups.
- Maintaining and enhancing the Dark Sky Reserve website.
- Reprinting the Dark Sky Reserve brochure.

### Light Pollution Monitoring

In its Lightscape Management Plan, the Reserve committed to annually monitoring trends in light pollution by periodically monitoring the darkness of the night sky and the percentage of outdoor lights in compliance with International Dark Sky Association standards. In order to monitor effectively these trends, the Reserve needs to enhance its monitoring capabilities by obtaining additional mobile and permanently-mounted sky quality meters/cameras.

The mobile meters will allow volunteers to record sky quality at the designated array of monitoring sites more frequently throughout the year. The additional data will provide a more complete picture of light pollution impacts in the Reserve and the ability to analyze long-term trends. The funding request will allow the Reserve to purchase two additional meters.

Automated permanently-mounted sky quality meter sites will provide a complete data of all clear nights throughout the year from representative critical sites within the Reserve, such as the Wood River Valley and the Sawtooth Valley. The funding request will allow the Reserve to purchase one more automated site.

### Overall benefits of the Central Idaho Dark Sky Reserve to the City of Ketchum and city residents

The Idaho Dark Sky Alliance works with a number of organizations throughout the reserve to educate residents about the importance of maintaining dark skies. The group also serves as a resource for Ketchum and other communities as they develop and implement dark sky policies.



The pristine dark skies we enjoy in the Reserve are a treasured resource for both local residents and visitors. A main goal for the CIDSR is to preserve our dark skies. Reducing artificial light at night benefits human health and wildlife populations, and reduces energy consumption. Dark Sky designation can also provide economic benefits to local businesses through increased tourism and specific benefits to businesses that provide dark sky related items.

The City of Ketchum has been involved with the Dark Sky planning discussions since the 1990s when the city passed a Dark Sky Lighting Ordinance. City staff were instrumental in the early planning effort to get CIDSR recognized as the first Dark Sky Reserve in the US.

## Additional Information for Question 5

### Benchmarks for Lightscape Management Plan

(from CIDSR Application, pages 52-53)

#### 1-12 months following accreditation of the CIDSR

- Establish advisory group for CIDSR. This group will include a representative from each of the following: City of Ketchum, City of Sun Valley, City of Stanley, Board of Blaine County Commissioners, USFS Sawtooth National Recreation Area, Idaho Conservation League, and two citizen representatives: one from the Sawtooth Valley and one from the Ketchum/Sun Valley/Blaine County area. The advisory group will establish working groups for Education and Outreach, and Monitoring and Reporting. The advisory group will meet at least quarterly to ensure coordination among the CIDSR partners, and to provide feedback to the working groups.
- Launch a media and educational effort highlighting CIDSR.
- Host at least 4 dark sky educational events in the surrounding communities.
- Advisory group will begin to develop incentive programs for compliance. This will include continuing to work with the Salmon River Electric Cooperative (SREC) and Idaho Power to provide economic incentives for customers to convert to energy efficient, dark sky compliant lighting. SREC provides electricity to the entire Sawtooth Valley and offers customer rebates for energy efficient lights funded by the Bonneville Power Administration.
- Secure funding and erect signage along entrances to the Dark Sky Reserve

#### 1-3 years after enactment of the CIDSR

- Advisory group will continue to work with Thompson Creek Mining Company to further reduce light output from mining operations based off of CIDSR compliance criteria.
- Stanley will adopt an outdoor lighting ordinance that will assure continuation of its program to maintain shielding of 100% of outdoor lights.
- Stanley will convert its current shielded street lights to 3000 K or less lamps.
- Advisory group will work with local communities to develop lighting showcase areas that can serve educational purposes.

#### Annually

- Advisory group will coordinate with municipalities and partners to host at least four dark sky educational events in the surrounding communities.
- SQM monitoring throughout reserve; compliance monitoring will occur in municipalities (see specifics outlined in monitoring and reporting plan section) and counties.
- Advisory group will oversee annual report preparation and submission to IDA.

### Interpretation and Education

Because skies and celestial objects have engaged, intrigued and awed humanity since ancient times, they can serve as a useful bridge between those times and the present, as well as between science and imagination. Increasing awareness and knowledge in this arena is one key objective of CIDSR. There are currently a number of education programs underway which focus on astronomy and the dark skies of the region. Creation of CIDSR will enhance these programs as well as increase scientific research and astro-tourism.

Achievement of a dark sky status is also a way to bring back cultural storytelling, songs, and gatherings that have not been practiced for centuries. A Dark Sky designation could provide an opportunity to better connect and engage the public in these cultural opportunities.

A committee has been formed to carry out education and outreach efforts. It is currently made up of representatives from the Idaho Conservation League, local governments, educational non-profits, and interested volunteers from the Reserve area. The Education and Outreach Committee hopes to capture community excitement and channel it into effective action. In order to harness the early interest in CIDSR and create lasting, sustainable momentum, the committee will develop and implement a strategy that includes a variety of education and outreach events, publicizing these and other related activities, regularly reporting progress toward Dark Sky goals, and tapping into strong community institutions in order to make them vital stakeholders in lightscape management.

### **Outreach and Education Planning**

If CIDSR is accredited the committee plans to work with a broad range of partners to increase awareness of the Reserve, encourage night sky friendly lighting, and inspire appreciation of the area's dark sky resource.

A wide range of educational efforts has been discussed throughout the planning process. The committee will determine the feasibility of the various proposals to be implemented within the first five years of achieving reserve status. Potential programs and actions include:

#### *Outreach and Education*

- Create relationships with routine outdoor users to implement a regular dark sky monitoring schedule (the Community School outdoor program, Hemingway STEAM School, Girl/Boy Scouts, 4H, Firstlite, etc)
- Create relationships with professional groups (architects, engineers, store owners) to develop displays and/or continuing education seminars for building professionals
- Create relationships with energy providers (Idaho Power, Salmon River Electric) and financial institutions on current and future financial incentives for upgrading light fixtures to be compliant
- Create relationships with scientists and astronomy/environmental professionals (ICL, ERC, CSI Planetarium), etc for information and advocacy on astronomy and the night sky
- Recruit and train volunteers to provide programs for interested groups about dark sky benefits and responsibilities, to conduct light inventories, staff educational booths at local events, and support other efforts
- Establish a collection of educational and presentation materials that can be used for programs with schools, youth organizations (camps, scouts, 4H), and civic groups
- Develop a modular/traveling exhibit for use at local events and promotions to provide information about dark sky benefits and responsibilities, light pollution, and how to get involved
- Work with local visitor centers in the Stanley and Ketchum area to design and install permanent Dark Sky exhibits.
- Identify potential locations along state highways 75 and 21 where visitors can park to enjoy the night sky and install wayside interpretive signs to explain the role of the Reserve in preserving the dark sky resource.
- Work with the Idaho Transportation Department to explore the possibility of re-designating the Sawtooth Scenic Byway as the Sawtooth Dark Sky Scenic Byway

- Identify local and regional funding sources and potential grants to support educational outreach and other Dark Sky efforts and materials



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve the Interlocal Agreement 22030 (Ketchum/Blaine County) for Geographical Information System (GIS) Services**

#### Recommendation and Summary

Staff is recommending the council adopt the following motion:

**“Move to Approve the Interlocal Agreement with Blaine County for GIS Services in an amount not to exceed \$5,000.”**

The reasons for the recommendation are as follows:

- Ketchum and Blaine County are in agreement with the proposed contract.
- This is a reduction in the amount Ketchum has spent in prior years.

#### Analysis

Ketchum’s Planning and Building Department has managed the GIS contract for a number of years. In discussions with Planning and Building staff, it was determined the scope of services and amount Ketchum was spending could be modified. The proposed contract reflects the modifications.

#### Financial Impact

There is sufficient funding to provide for this contract in the Planning & Building budget.

#### Attachments

FY22 Interlocal Agreement

**INTERLOCAL AGREEMENT**  
(City of Ketchum/Blaine County)

RECITALS

WHEREAS, City of Ketchum employees and members of the public desire to have access to an internet-based GIS system to gain information about properties in Ketchum; and,

WHEREAS, City of Ketchum employees can share public agency data to reduce costs and guide in the provision of services to those most in need, including community safety, public health and development services; and,

WHEREAS, City of Ketchum employees seek to enhance their analytical, problem-solving and decision-making capabilities through the utilization of GIS and work with professionals in the field to incorporate new tools and technologies for personal skill development and community benefit at large; and,

WHEREAS, City of Ketchum employees can ultimately make more informed decisions using an internet-based GIS system that is constructed in-house as opposed to requesting external proposals and absorbing consulting fees; and,

WHEREAS, the interlocal agreement was in place during FY2021 and budgeted in the adopted City of Ketchum Community Development Department FY2022 budget.

TERMS

NOW, THEREFORE, subject to the limitations of this agreement and in order to provide assistance between the parties in providing GIS service, it is hereby agreed as follows:

1. DURATION OF AGREEMENT. This Agreement shall be effective from October 1, 2021 until September 30, 2022. The parties may extend the agreement with the written consent of both parties.
2. PURPOSE. The purpose of this Agreement is to allow the City of Ketchum to contract with Blaine County for access to a City web-based application on Blaine County's web server.
3. MANNER OF FINANCING AND BUDGET. City of Ketchum shall reimburse Blaine County for the hosting cost of the GIS web site at a cost of \$5,000.00 per year. Such payment shall be paid at the beginning of the fiscal year in one payment.
4. DUTIES. The provision of these services shall be governed as set out below:

- The County agrees to host one (1) web-based GIS application on its Web Server for City of Ketchum.
  - The size of the data hosted for the City of Ketchum application shall not exceed 200 MB.
  - Blaine County staff will spend a maximum of 10 hours maintaining said web-based GIS application.
  - The scope of Blaine County staff time will be limited to tasks directly related to the maintenance of said web-based GIS application.
5. AMENDMENT. This Agreement may be amended at any time, and from time to time, by the mutual written consent of City of Ketchum and Blaine County for any of the following purposes:
- To add provisions to the Agreement to benefit either or both City of Ketchum and Blaine County.
  - To extend the term of the Agreement.
  - To cover any cost increases to the web site.
  - To cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provisions with respect to matters or questions arising under this Agreement which are not inconsistent with the provisions of the Agreement.
6. SEVERABILITY. In the event any provision of this Agreement shall be declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not, in any way, be affected or impaired thereby.

IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officials.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BLAINE COUNTY, an Idaho political subdivision

\_\_\_\_\_  
Dick Fosbury, Chairman, Board of Blaine County  
Commissioners

ATTEST:

\_\_\_\_\_  
Stephen McDougall Graham, Clerk

CITY OF KETCHUM, an Idaho  
municipal corporation

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
Tara Fenwick  
City Clerk





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to approve Right-of-Way Encroachment Agreement 22747 with Cox Communications for placement of telecommunications infrastructure in the City Right-of-Way**

#### Recommendation and Summary

Staff is recommending the Council approve the attached Encroachment Agreement 22747 and adopt the following motion:

**"I move to authorize the Mayor to sign Encroachment Agreement 22747 with Cox Communications."**

The reasons for the recommendation are as follows:

- The encroachment is necessary to provide communication services to 451, 460, 490, 500, and 510 River Street.
- The encroachment will have no impact on pedestrian or public access.

#### Introduction and History

Cox Communications would like to install approximately 245ft. of new coaxial cable and 2" conduit within the River Street right-of-way in east of Leadville.

City code requires a right-of-way encroachment permit for any permanent encroachment in the public right-of-way. These agreements are intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair of the encroachment or relocation.

#### Analysis

Staff has reviewed the layout of the proposed utilities. In consideration of future projects and current operations, the proposed encroachments were determined not to impact public access or maintenance.

#### Financial Impact

There is no financial impact resulting from approval of this encroachment agreement.

Attachments:

Encroachment Agreement 22747

**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY CLERK  
CITY OF KETCHUM  
POST OFFICE BOX 2315  
KETCHUM, IDAHO 83340**

---

**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22747**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_, 2021, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and \_\_\_\_\_, representing Cox Communications, (collectively referred to as "Owner"), whose address is 3031 N 120<sup>th</sup> St., Omaha, NE 68164.

*RECITALS*

WHEREAS, Owner wishes to permit placement of an existing pedestal and new underground telecommunications improvements in the right-of-way of River Street. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the sidewalk, street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

*TERMS AND CONDITIONS*

1. Ketchum shall permit Owner to install telecommunications infrastructure identified in Exhibit "A" within the public alley right of way east of River Street, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.
2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed.
3. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation of the vault, to the satisfaction of the Director of Streets and Facilities.
4. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from

any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

5. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

6. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

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

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate, and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Neil Bradshaw  
Its: Mayor

STATE OF \_\_\_\_\_,     )  
  ) ss.  
County of \_\_\_\_\_  )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF IDAHO     )  
  ) ss.  
County of Blaine    )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

**EXHIBIT "A"**

# COX COMMUNICATIONS

## KARL KREKOW; RIVER STREET PROJECT

### FALL 2021

#### CONSTRUCTION NOTES

- ALL CONSTRUCTION SHALL BE IN CONFORMANCE WITH THE MOST CURRENT EDITION OF THE "IDAHO STANDARDS FOR PUBLIC WORKS CONSTRUCTION" (ISPCW) AND CITY OF KETCHUM STANDARDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND KEEPING A COPY OF THE ISPCW AND CITY OF KETCHUM STANDARDS ON SITE DURING CONSTRUCTION.
- THE LOCATION OF EXISTING UNDERGROUND UTILITIES ARE SHOWN ON THE PLANS IN AN APPROXIMATE WAY. A SITE SURVEY OF EXISTING UTILITIES WAS NOT CONDUCTED FOR THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING EXISTING UTILITIES PRIOR TO COMMENCING AND DURING THE CONSTRUCTION. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH RESULT FROM HIS FAILURE TO ACCURATELY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES. CONTRACTOR SHALL CALL DIGLINE (1-800-342-1585) TO LOCATE ALL EXISTING UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS IN ADVANCE OF EXCAVATION.
- CONTRACTOR SHALL COORDINATE DRY UTILITY FACILITIES IMPACTS AND JOINT TRENCH CONSTRUCTION (POWER, CABLE, PHONE, TV) WITH THE APPROPRIATE UTILITY FRANCHISE.
- THE CONTRACTOR SHALL CLEAN UP THE SITE AFTER CONSTRUCTION SO THAT IT IS IN A CONDITION EQUAL TO OR BETTER THAN THAT WHICH EXISTED PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION (THIS MAY INCLUDE ENCROACHMENT PERMITS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) CONSTRUCTION GENERAL PERMIT (CGP) PERMIT COVERAGE).
- ALL CLEARING & GRUBBING SHALL CONFORM TO ISPCW SECTION 201.
- ALL EXCAVATION & EMBANKMENT SHALL CONFORM TO ISPCW SECTION 202. SUBGRADE SHALL BE EXCAVATED AND SHAPED TO LINE, GRADE, AND CROSS-SECTION SHOWN ON THE PLANS. THE SUBGRADE SHALL BE COMPACTED TO 95% OF MAXIMUM DENSITY AS DETERMINED BY ASTM D-4958. THE CONTRACTOR SHALL WATER OR AERATE SUBGRADE AS NECESSARY TO OBTAIN OPTIMUM MOISTURE CONTENT. IN LIEU OF DENSITY MEASUREMENTS, THE SUBGRADE MAY BE PROOF-ROLLED TO THE APPROVAL OF THE ENGINEER.
- PROOF-ROLLING:** AFTER EXCAVATION TO THE SUBGRADE ELEVATION AND PRIOR TO PLACING COURSE GRAVEL, THE CONTRACTOR SHALL PROOF ROLL THE SUBGRADE WITH A 5-TON SMOOTH DRUM ROLLER, LOADED WATER TRUCK, OR LOADED DUMP TRUCK, AS ACCEPTED BY THE ENGINEER. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF UNSUITABLE SUBGRADE MATERIAL AREAS, AND/OR AREAS NOT CAPABLE OF COMPACTION ACCORDING TO THESE SPECIFICATIONS. UNSUITABLE OR DAMAGED SUBGRADE IS WHEN THE SOIL MOVES, PUMPS AND/OR DISPLACES UNDER ANY TYPE OF PRESSURE INCLUDING FOOT TRAFFIC LOADS.
- IF, IN THE OPINION OF THE ENGINEER, THE CONTRACTOR'S OPERATIONS RESULT IN DAMAGE TO, OR PROTECTION OF, THE SUBGRADE, THE CONTRACTOR SHALL, AT HIS OWN EXPENSE, REPAIR THE DAMAGED SUBGRADE BY OVER-EXCAVATION OF UNSUITABLE MATERIAL TO FIRM SUBSOIL, LINE EXCAVATION WITH GEOTEXTILE FABRIC, AND BACKFILL WITH FIT RUN GRAVEL.
- ALL 2" MINUS GRAVEL SHALL CONFORM TO ISPCW 802, TYPE II (ITD STANDARD 703.04, 2"). SHALL BE PLACED IN CONFORMANCE WITH ISPCW SECTION 801 AND COMPACTED PER SECTION 202. MINIMUM COMPACTION OF PLACED MATERIAL SHALL BE 90% OF MAXIMUM LABORATORY DENSITY AS DETERMINED BY AASHTO T-99.
- ALL 3/4" MINUS CRUSHED GRAVEL SHALL CONFORM TO ISPCW 802, TYPE I (ITD STANDARD 703.04, 3/4" B). SHALL BE PLACED IN CONFORMANCE WITH ISPCW SECTION 802 AND COMPACTED PER SECTION 202. MINIMUM COMPACTION OF PLACED MATERIAL SHALL BE 95% OF MAXIMUM LABORATORY DENSITY AS DETERMINED BY AASHTO T-99 OR ITD T-91.
- ALL ASPHALTIC CONCRETE PAVEMENT WORK SHALL CONFORM TO ISPCW SECTION(S) 805, 810, AND 811 FOR CLASS II PAVEMENT. ASPHALT AGGREGATE SHALL BE 1/2" (13MM) NOMINAL SIZE CONFORMING TO TABLE 803B IN ISPCW SECTION 803. ASPHALT BINDER SHALL BE PG 58-28 CONFORMING TO TABLE A-1 IN ISPCW SECTION 805. ASPHALT REPLACEMENT SHALL CONFORM TO CITY OF KETCHUM STANDARD DRAWING NO. 3.
- ASPHALT SAWCUTS SHALL BE AS INDICATED ON THE DRAWINGS, OR 24" INCHES FROM EDGE OF EXISTING ASPHALT, IF NOT INDICATED OTHERWISE SO AS TO PROVIDE A CLEAN PAVEMENT EDGE FOR MATCHING. NO WHEEL CUTTING SHALL BE ALLOWED.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING TRAFFIC CONTROL PER THE CURRENT EDITION OF THE US DEPARTMENT OF TRANSPORTATION MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
- ALL CONCRETE WORK SHALL CONFORM TO ISPCW SECTIONS 701, 703, AND 705. ALL CONCRETE SHALL BE 3,000 PSI MINIMUM, 28 DAY, AS DEFINED IN ISPCW SECTION 703, TABLE 1. IMMEDIATELY AFTER PLACEMENT PROTECT CONCRETE BY APPLYING MEMBRANE-FORMING CURING COMPOUND, TYPE 2, CLASS A PER ASTM C 309-94. APPLY CURING COMPOUND PER MANUFACTURER'S INSTRUCTIONS AND SPECIFICATIONS. CONCRETE REPLACEMENT SHALL CONFORM TO CITY OF KETCHUM STANDARD DRAWING NO. 7.
- ALL TRENCHING SHALL CONFORM TO CITY OF KETCHUM STANDARD DRAWING NO. 12. TRENCHES SHALL BE BACKFILLED AND COMPACTED TO A MINIMUM OF 95% OF MAXIMUM DENSITY AS DETERMINED BY AASHTO T-99.
- PER IDAHO CODE § 55-1613, THE CONTRACTOR SHALL RETAIN AND PROTECT ALL MONUMENTS, ACCESSORIES TO CORNERS, BENCHMARKS AND POINTS SET IN CONTROL SURVEYS; ALL MONUMENTS, ACCESSORIES TO CORNERS, BENCHMARKS AND POINTS SET IN CONTROL SURVEYS THAT ARE LOST OR DISTURBED BY CONSTRUCTION SHALL BE REESTABLISHED AND RE-MONUMENTED, AT THE EXPENSE OF THE AGENCY OR PERSON CAUSING THEIR LOSS OR DISTURBANCE AT THEIR ORIGINAL LOCATION OR BY SETTING OF A WITNESS CORNER OR REFERENCE POINT OR A REPLACEMENT BENCHMARK OR CONTROL POINT, BY OR UNDER THE DIRECTION OF A PROFESSIONAL LAND SURVEYOR.
- ALL REPAIRS MUST MATCH EXISTING LINES, GRADES, AND DRAINAGE PATTERNS. REPAIR AND REPLACE IN KIND ALL EXISTING FEATURE OR IMPROVEMENTS DAMAGED DURING CONSTRUCTION, INCLUDING LANDSCAPE AND IRRIGATION. ALL REPAIRS SHALL RESULT IN EQUAL OR BETTER QUALITY.
- CONTRACTOR SHALL RESTRICT ALL CONSTRUCTION ACTIVITIES TO WITHIN EXISTING EASEMENTS AND RIGHT-OF-WAY.
- CONTRACTOR SHALL COMPLETE A CONSTRUCTION MANAGEMENT PLAN CONSISTENT WITH CITY OF KETCHUM STANDARDS.

#### GENERAL NOTES

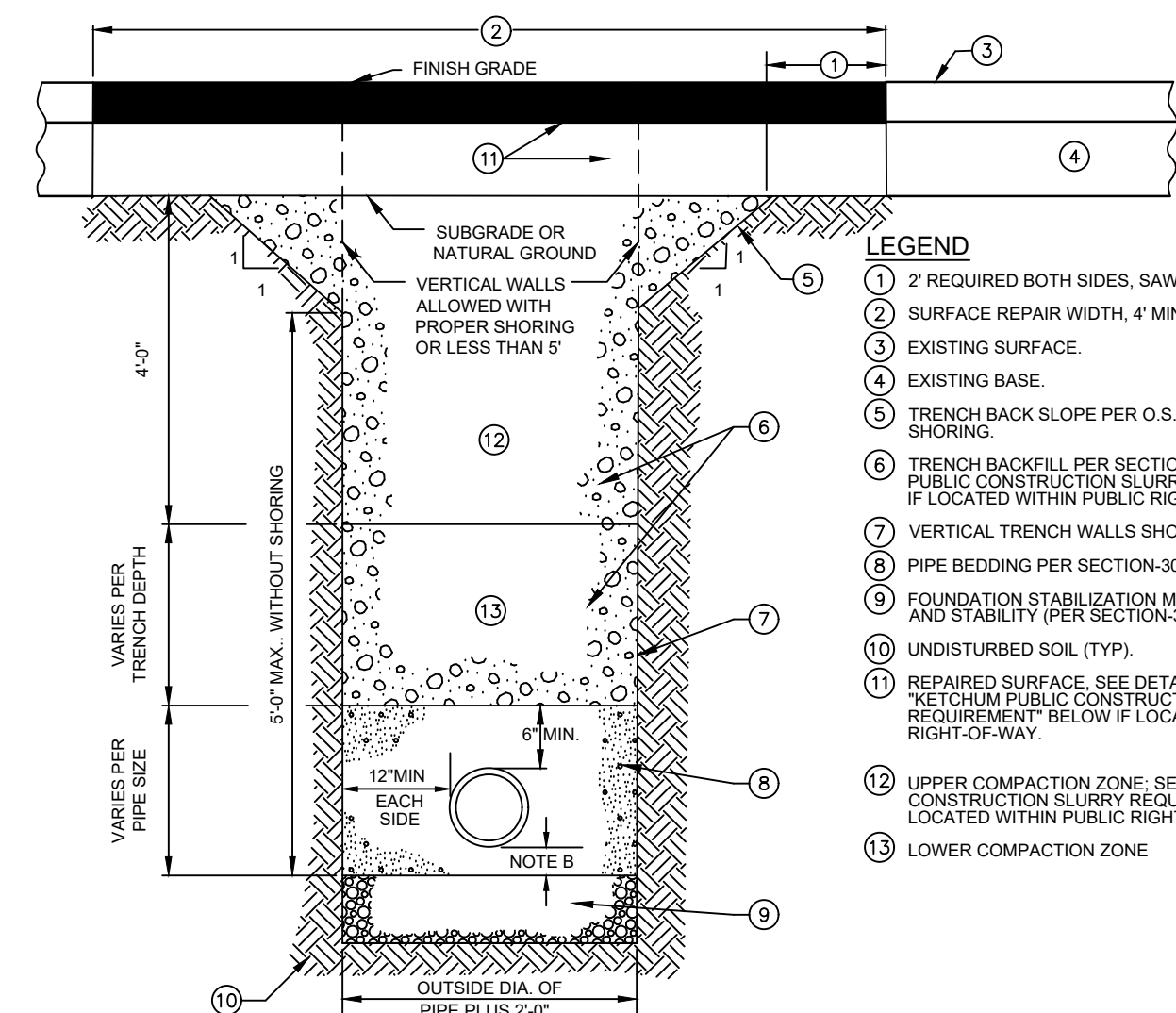
- THE PURPOSE OF THIS PLAN SET IS TO PROVIDE REPAIR DETAILS FOR DISTURBANCES ASSOCIATED WITH THE PROPOSED EXTENTS OF THE NEW COX COMMUNICATIONS LINE. THE ALIGNMENT AND VAULT/PEDESTAL LOCATIONS SHOWN HEREON ARE APPROXIMATE PER A MAP BY COX COMMUNICATIONS RECEIVED OCTOBER 14, 2021. GALENA ENGINEERING HAS NOT ENGINEERED THE COMMUNICATIONS LINE ALIGNMENT, VAULT/PEDESTAL LOCATIONS, OR VAULT/PEDESTAL DETAILS.
- RIGHT-OF-WAY INFORMATION SHOWN HEREON IS APPROXIMATE PER BLAINE COUNTY GIS.
- POWER, WATER, AND SEWER LOCATIONS ARE APPROXIMATE AND ARE BASED UPON CITY OF KETCHUM MAPS AND IDAHO POWER UTILITY LOCATION MAPS.
- GALENA ENGINEERING INC. HAS NOT RECEIVED A TITLE POLICY FROM THE CLIENT AND HAS NOT BEEN REQUESTED TO OBTAIN ONE. RELEVANT INFORMATION THAT MAY BE CONTAINED WITHIN A TITLE POLICY MAY THEREFORE NOT APPEAR ON THIS MAP AND MAY AFFECT ITEMS SHOWN HEREON. IT IS THE RESPONSIBILITY OF THE CLIENT TO DETERMINE THE SIGNIFICANCE OF THE TITLE POLICY INFORMATION AND DETERMINE WHETHER IT SHOULD BE INCLUDED. IF THE CLIENT DESIRES FOR THE INFORMATION TO BE INCLUDED THEY MUST FURNISH SAID INFORMATION TO GALENA ENGINEERING, INC. AND REQUEST IT BE ADDED TO THIS MAP.
- TEMPERATURES FOR PAVING AND PATCH BACK MUST BE 40 DEGREES AND RISING.
- IF THERE IS A MATERIAL CHANGE FROM APPROVED DRAWINGS, PROVIDE AS-BUILT DRAWINGS TO CITY WHEN COMPLETED FOR CITY RECORDS.
- CONSTRUCTION REQUIRED TO MEET APPLICABLE CITY OF KETCHUM'S CONSTRUCTION ACTIVITY STANDARDS INCLUDING:
  - PUBLIC NOTICING
  - DUST, MUD, SAND, AND GRAVEL CONTROL ON ALL STREETS
  - TEMPORARY RESTROOMS
  - THE SITE SHALL BE KEPT IN A CLEAN AND ORDERLY CONDITION.
  - TRASH SHALL BE PICKED UP ON THE SITE AND SURROUNDING AREAS ON A DAILY BASIS, AND MATERIALS SHALL BE STORED IN NEAT TIDY PILES.
- STAGING LOCATION MUST BE COORDINATED WITH THE CITY OF KETCHUM.
- CONSTRUCTION HOURS ARE BETWEEN 7:30 AM TO 7:00 PM ON WEEKDAYS AND SATURDAYS. NO CONSTRUCTION IS PERMITTED ON SUNDAYS OR MAJOR HOLIDAYS.

#### CITY OF KETCHUM- WATER DEPARTMENT NOTE

NO LESS THAN 6 FT OF SEPARATION FROM ALL UTILITY INFRASTRUCTURE, BOTH WATER AND SEWER, IS REQUIRED. 6 FT IS THE DISTANCE REQUIRED FOR BANK LAYBACK NEAR ANY LINES. CONTRACTOR SHALL CONFIRM SEPARATIONS.

#### CITY OF KETCHUM- STREET DEPARTMENT NOTES

- MAY 1ST STARTING DATE IS WEATHER DEPENDENT.
- DIG PERMIT IS REQUIRED WHICH WILL REQUIRE DETAILED TRAFFIC CONTROL PLAN.
- SIZE OF PROJECT REQUIRES INCREASED BOND AMOUNT (TO BE DETERMINED). PLEASE PROVIDE A COST ESTIMATE OF STREET REPAIRS REQUIRED FOR PROJECT.
- PUBLIC NOTICE ANNOUNCEMENT IN MOUNTAIN EXPRESS AS WELL AS DOOR KNOCKERS TO THOSE IMPACTED ARE REQUIRED AT LEAST THREE DAYS IN ADVANCE.
- CONTRACTOR NEEDS TO BE ON JOB DAILY UNTIL COMPLETE (WEEKENDS AND HOLIDAYS EXCLUDED).
- FLAGGERS WILL BE REQUIRED AT RESIDENTIAL AND BUSINESS ENTRANCES AS NEEDED. THIS WILL NEED TO BE ADDRESSED ON DETAILED TRAFFIC CONTROL PLAN.
- KEEP ONE LANE OPEN ALWAYS UNLESS FULL CLOSURE IS NECESSARY (ACCESS FOR RESIDENTIAL AND BUSINESSES MUST BE MAINTAINED).
- KEEP TRENCHING CUTS STRAIGHT AND NEAT.
- ALL ASPHALT CUTS TO BE SAWCUT AND TWO FEET BACK FROM THE DEEPEST UNDERMINE.
- CONTRACTOR WILL NOT TRENCH MORE THAN CAN BE SLURRED AND BACKFILLED PER DAY.
- NO HOLES OPEN OVERNIGHT MORE THAN ONE FOOT DEEP (UNLESS PLATED OR BARRICADED PER THE MUTCD).
- CONTRACTOR IS REQUIRED TO KEEP STREETS CLEAN FROM ROCKS, DIRT, MUD, ETC. DAILY (SWEEP).
- STREET DEPARTMENT MUST BE CALLED FOR INSPECTION BEFORE BACK FILL, SLURRY, AND ASPHALT.
- KEEP ASPHALT CUT JOINTS OUT OF WHEEL LANES IF POSSIBLE.



#### KETCHUM PUBLIC CONSTRUCTION SLURRY REQUIREMENT

IN AREAS WHERE IT IS NECESSARY TO CUT THE ASPHALT PAVEMENT AND DIG A TRENCH FOR BURIAL OF CONDUIT CABLE OR OTHER CITY UTILITY, THE TRENCH SHALL BE BACKFILLED WITH A LEAN CONCRETE MIX TO THE BOTTOM OF FINISH SURFACE MATERIAL WITH THE FOLLOWING PROPORTIONS OF MATERIALS:

COARSE AGGREGATE (3/4" MINUS)	2,600 LBS
SAND	800 LBS
PORTLAND CEMENT	94 LBS
WATER	11 GAL (MAX.)

WATER CONTENT IS MAXIMUM AND MAY BE REDUCED DOWNWARD. CARE SHALL BE TAKEN TO ASSURE THAT EXCESS WATER IS NOT PRESENT IN THE MIXING DRUM PRIOR TO CHARGING THE MIXER WITH MATERIALS. THOROUGH MIXING WILL BE REQUIRED PRIOR TO DISCHARGE.

NO COMPACTION, VIBRATION, OR FINISHING IS REQUIRED. THE LEAN CONCRETE MIX SHALL BE STRUCK OFF AT OR BELOW THE ELEVATION OF THE PLANT MIX SURFACING WITH A SQUARE-NOSE SHOVEL OR SIMILAR HAND TOOL. THE BACKFILL MIX SHALL BE ALLOWED TO SET FOR A MINIMUM OF 2 HOURS BEFORE THE PERMANENT PLANT MIX SURFACING IS PLACED TO COMPLETE THE TRENCH REPAIR. TEMPORARY PLACEMENT OF ASPHALT COLD MIX SURFACING MAY BE NECESSARY TO ACCOMMODATE TRAFFIC WITHIN THE FIRST 2 HOURS OF BACKFILL PLACEMENT PRIOR TO COMPLETING THE PERMANENT REPAIR.

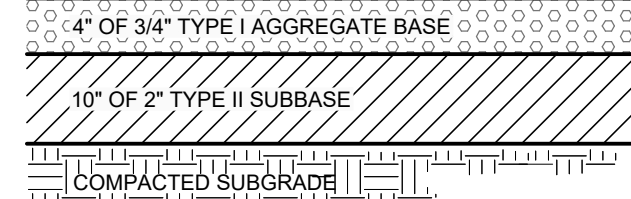
#### NOTES:

- TRENCH EXCAVATION PER SECTION-301.
- PIPE BEDDING PER SECTION-305.
- BACKFILL AND COMPACTION PER SECTION-306.
- SURFACE REPAIR AND BASE PER DETAIL 3.
- ASPHALT PAVEMENT FOR SURFACE REPAIR SHALL BE IN ACCORDANCE WITH PLANS AND ISPCW SECTIONS 805, 810, AND 811 FOR CLASS II PAVEMENT. ASPHALT AGGREGATE SHALL BE 3/4" (13MM) NOMINAL SIZE CONFORMING TO TABLE 803B IN ISPCW SECTION 803. ASPHALT BINDER SHALL BE PG 58-28 CONFORMING TO TABLE A-1 IN ISPCW SECTION 805.
- IF TRENCH IMPACTS CROWN OF ROADWAY, CROWN MUST BE MAINTAINED AND POSITIVE DRAINAGE PROVIDED.

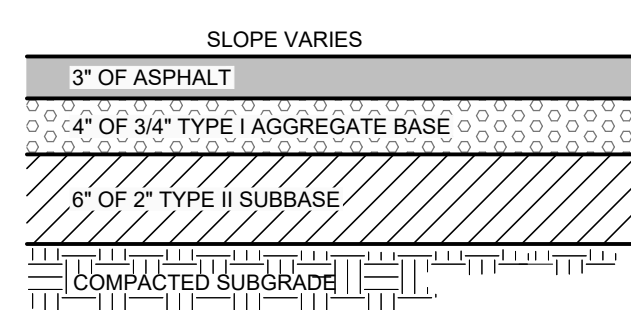
#### 1 TYPICAL TRENCH

CITY OF KETCHUM STANDARD DRAWING NO. 12  
N.T.S.

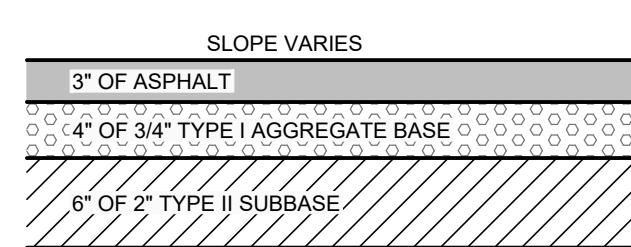
#### SLOPE VARIES



#### GRAVEL SECTION



#### STREET ASPHALT SECTION

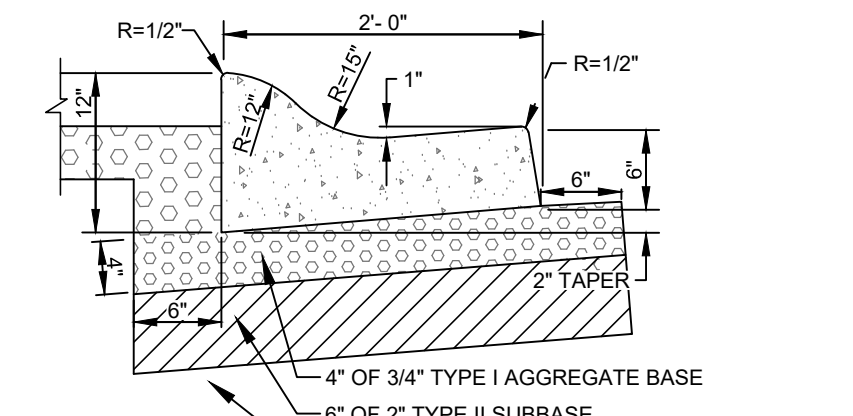


#### ALLEY ASPHALT SECTION

- NOTES:
- SUBBASE CAN BE 2" TYPE II OR 3/4" TYPE I CRUSHED AGGREGATE BASE COURSE.
  - MATERIALS SHALL CONFORM WITH CURRENT ISPCW STANDARDS, DIVISION 800 AGGREGATES AND ASPHALT.
  - PAVEMENT SECTION MAY BE MODIFIED IF A PROJECT SPECIFIC GEOTECHNICAL REPORT, STAMPED BY A LICENSED ENGINEER, IS PROVIDED.

#### 2 TYPICAL ROAD SECTIONS

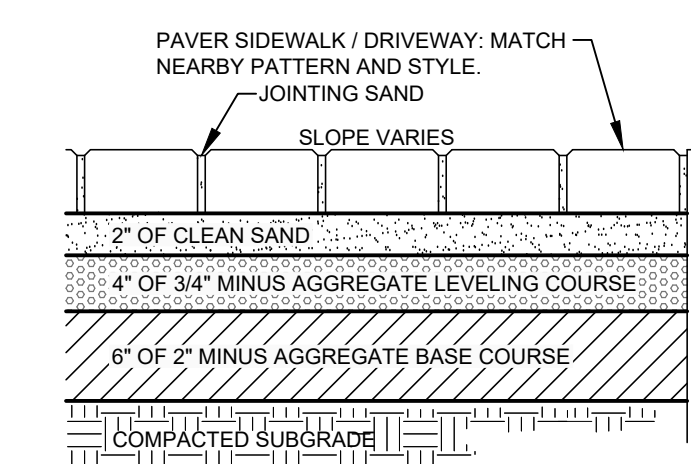
CITY OF KETCHUM STANDARD DRAWING NO. 3  
N.T.S.



#### 3 6" CONCRETE ROLLED CURB & GUTTER

3" ROLLED CURB NOT PERMITTED

- NOTES:
- 1/2-INCH PREFORMED EXPANSION JOINT MATERIAL (AASHTO M 213) AT TERMINAL POINTS OF RADI.
  - CONTINUOUS PLACEMENT PREFERRED. SCORE INTERVALS TO MATCH SIDEWALK WITH 10-FOOT MAXIMUM SPACING.
  - MATERIALS SHALL CONFORM WITH CURRENT ISPCW STANDARDS, DIVISION 800 AGGREGATES AND ASPHALT.



#### 4 PAVER DETAIL

N.T.S.

#### NOTES:

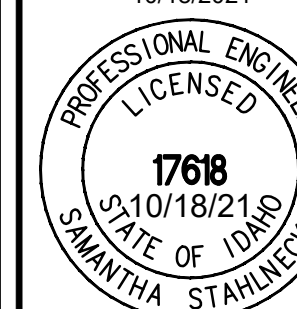
- CONTRACTOR SHALL REPAIR ALL IN-GROUND HEATING SYSTEMS IF DAMAGED. COORDINATE WITH OWNER PRIOR TO CONSTRUCTION.



VICINITY MAP  
SCALE: 1"=500'

**COVER SHEET**  
**COX COMMUNICATIONS: RIVER STREET**  
 LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 PREPARED FOR COX COMMUNICATIONS

ORIGINAL SIGNED BY  
 SAMANTHA STAHLNECKER  
 DATE ORIGINAL SIGNED:  
 10/18/2021



ORIGINAL ON FILE AT  
 OFFICE OF GALENA  
 ENGINEERING  
 (HAILEY, ID)

DESIGNED BY  
 FRM  
 DRAWN BY  
 SKS  
 CHECKED BY

**GALENA**  
**ENGINEERING, INC.**  
 Civil Engineers & Land Surveyors  
 317 N. River Street  
 Hailey, Idaho 83433  
 (208) 788-1705  
 email: galena@galena-engineering.com

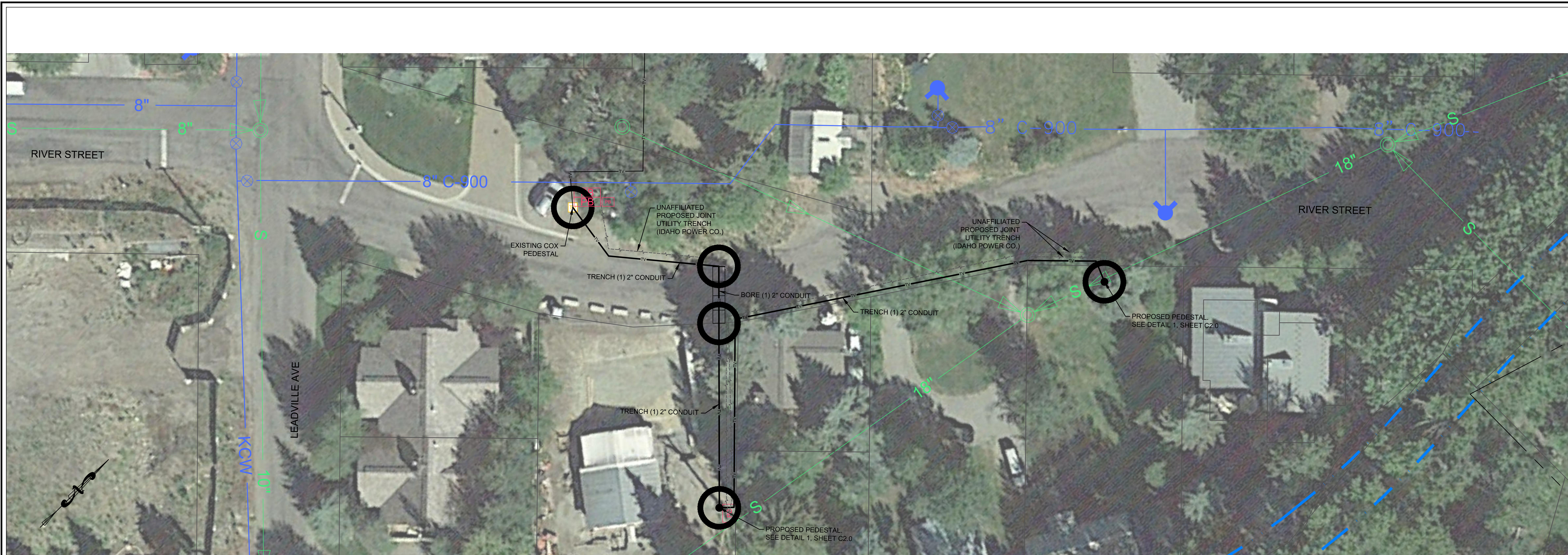
PURPOSE: ISSUE FOR AGENCY REVIEW (10/18/21)

NO.	DATE	BY	REVISIONS

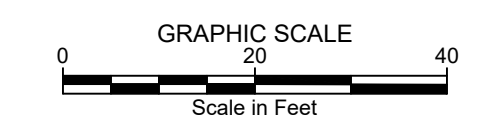
**C1.0**

REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this project except by agreement in writing with Galeana Engineering, Inc.

PROJECT INFORMATION  
 P:\subproj\7852-18 River St Leaning Tower\Construction\7852-18\_CDX PLANS\RiverSt\LeaningTower.dwg 10/15/21 1:08:00 PM



PLAN VIEW: RIVER STREET



**CHANNELL DATA SHEET**

**CPH CHALLENGER SERIES PEDESTALS**  
CPH911, CPH920, CPH1022



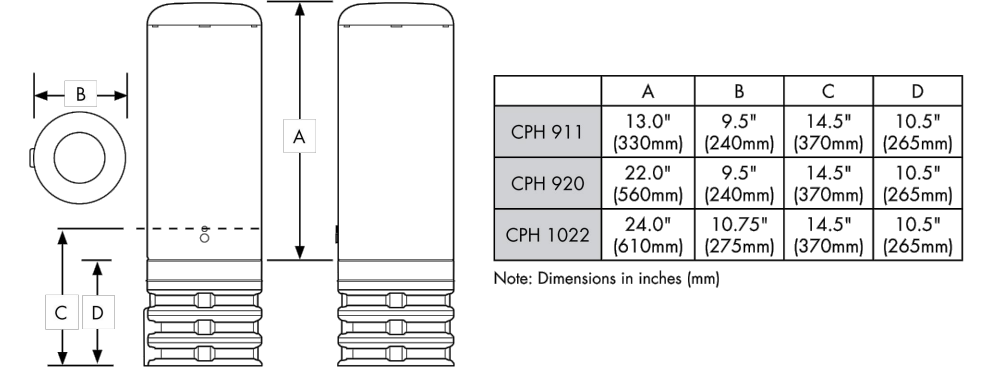
- FEATURES**
- 9" and 10" diameter round profiles provide maximum workspace and bend radius provisions for all passives, cables and connectors
  - Round pedestal style maintains a consistent look with legacy pedestals in the field
  - Constructed of durable, high-strength materials for maximum security and long service life
  - Universal equipment mounting bracket for passives facilitates installation
  - Optional stake mounting provision for joint trench or other special applications

Designed specifically for housing passive equipment, these special versions of the Channell CPH911, CPH920, and CPH1022 pedestals feature direct-bury bases with a high rib design that are less likely to lean or tilt and do not require stakes for installation. A special self-locating cover ensures that the pedestals lock properly without additional alignment. The covers include Channell's Self-Lock® security hardware.

**PART NUMBER MATRIX**

Challenger Pedestal Housing	CPH	XXXX	CX	BX	SX	LXX	AXX
Size	911 9" x 11" (230mm x 280mm)	1022 10" x 22" (250mm x 560mm)					
Color	920 9" x 20" (230mm x 510mm)						
Bracketry	C1 Light Green C2 Beige C3 Dark Green						
Stake Configuration	S1 No Stake (Ground Skirt) S2 Stake						
Self-Lock® Security System Lock Type	L00 Hex-Head L01 Standard L01 Channell Pattern II						
Accessories	AO No Accessory Options AI Winterized Drop						

**DIMENSIONS**



WORLDWIDE HEADQUARTERS: Channell Commercial Corporation, Rockwell, TX, United States • Tel 800.423.1863 • Fax 951.296.2322  
 CANADA: Channell Canada, Inc., Mississauga, ON, Canada • Tel 905.565.1700 • Fax 905.565.8282  
 EUROPE, MIDDLE EAST, AFRICA: Channell Ltd., Dartford, United Kingdom • Tel 44.1322.312590 • Fax 44.1322.508490  
 AUSTRALIA, ASIA, PACIFIC RIM: Channell Pty. Ltd., Seven Hills, NSW, Australia • Tel 61.2.8884.4111 • Fax 61.2.8814.8841  
 DEVELOPING LOCATION: Mexico City, D.F., Mexico

www.channell.com

All specifications subject to change without notice. © 2020 Channell Commercial Corporation. All rights reserved.

04620

**NOTES**

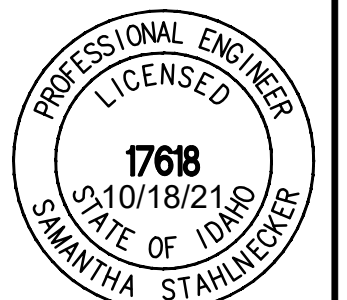
1. SEE SHEET C1.0 FOR ADDITIONAL NOTES.
2. AERIAL IMAGERY SHOWN HEREON PER GOOGLE EARTH.
3. AERIAL IMAGERY MAY NOT SHOW CURRENT CONDITIONS.
4. THE PURPOSE OF THIS PLAN SET IS TO PROVIDE REPAIR DETAILS FOR DISTURBANCES ASSOCIATED WITH PROPOSED EXTENTS OF THE NEW JOINT TRENCH COX COMMUNICATIONS LINE. THE ALIGNMENT AND VAULT/PEDESTAL LOCATIONS SHOWN HEREON ARE APPROXIMATE PER A MAP BY COX COMMUNICATIONS RECEIVED OCTOBER 14, 2021. GALENA ENGINEERING HAS NOT ENGINEERED THE COMMUNICATIONS LINE ALIGNMENT, VAULT/PEDESTAL LOCATIONS, OR VAULT/PEDESTAL DETAILS. SEE DETAILS 1-4, SHEET C1.0 FOR REPAIR DETAILS AS NECESSARY.
5. POWER, WATER, AND SEWER LOCATIONS ARE APPROXIMATE AND ARE BASED UPON CITY OF KETCHUM MAPS AND IDAHO POWER UTILITY LOCATION MAPS. COMMUNICATIONS UTILITY LOCATIONS ARE APPROXIMATE BASED UPON A MAP BY COX COMMUNICATIONS RECEIVED OCTOBER 14, 2021.
6. ALL REPAIRS MUST MATCH EXISTING LINES, GRADES, AND DRAINAGE PATTERNS. DAMAGED LANDSCAPE AND IRRIGATION SHALL BE REPAIRED. CONTRACTOR SHALL REPAIR ALL IN-GROUND HEATING SYSTEMS IF DAMAGED AND COORDINATE WITH OWNER PRIOR TO CONSTRUCTION COMMENCEMENT. ALL REPAIRS SHALL RESULT IN EQUAL OR BETTER QUALITY.

**LEGEND**

- PROPERTY LINE PER BLAINE COUNTY GIS
- - - EXISTING BURIED POWER LINE PER IDAHO POWER
- Ⓟ EXISTING POWER BOX
- KCW — EXISTING WATER MAIN
- Ⓢ EXISTING FIRE HYDRANT
- ⊗ EXISTING WATER VALVE
- S — EXISTING SEWER MAIN
- Ⓞ EXISTING SEWER MANHOLE
- TV — PROPOSED TRENCH COMMUNICATIONS LINE
- TV — PROPOSED BORE COMMUNICATIONS LINE
- TV — EXISTING COMMUNICATIONS LINE
- Ⓜ EXISTING COMMUNICATIONS PEDESTAL
- POTENTIAL DISTURBED AREA; MATCH EXISTING LINES, GRADES, AND DRAINAGE PATTERNS
- PROPOSED COMMUNICATIONS PEDESTAL
- - - UNAFFILIATED JOINT TRENCH
- RIVER
- CITY LIMITS

**PLAN SHEET**  
**COX COMMUNICATIONS: RIVER STREET**  
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
PREPARED FOR COX COMMUNICATIONS

ORIGINAL SIGNED BY SAMANTHA STAHLNECKER  
DATE ORIGINAL SIGNED: 10/18/2021



ORIGINAL ON FILE AT OFFICE OF GALENA ENGINEERING (HAILEY, ID)

DESIGNED BY FRM  
DRAWN BY SKS  
CHECKED BY

**GALENA ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
317 N. River Street  
Hailey, Idaho 83433  
(208) 768-1705  
email: galena@galena-engineering.com

PURPOSE: ISSUE FOR AGENCY REVIEW (10/18/21)

NO.	DATE	BY	REVISIONS

C2.0

REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this project except by agreement in writing with Galena Engineering, Inc.



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to approve Right-of-Way Encroachment Agreement 22748 for placement of pavers in the City Right-of-Way.**

#### Recommendation and Summary

Staff is recommending Council approve the attached Encroachment Agreement and adopt the following motion:

**"I move to authorize the Mayor to sign Encroachment Agreement 22748 with Joel and Amy Brazil."**

The reasons for the recommendation are as follows:

- The improvements will not impact the use or operation of the residential street
- The improvements will not impact drainage within the City ROW

#### Introduction and History

A Right-of-Way Encroachment Permit request was received for a paver driveway within the City's Right-of-Way at 221 Sage Road.

Right-of-Way standards were developed to achieve goals of drainage, parking, snow storage, access for emergency vehicles, and provide materials that can be reasonably maintained by the city. Pavers, snowmelt systems, and subsurface drip irrigation systems are not maintained by the City but may be approved through an encroachment agreement.

City code requires a right-of-way encroachment permit for any permanent encroachment in the public right-of-way. These agreements are intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair, relocation, or removal of the encroachment.

#### Analysis

The proposed encroachments were determined not to impact public access or city operations.

#### Financial Impact

There is no financial impact resulting from approval of this encroachment agreement.

Attachments:

Encroachment Agreement 22748



**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY CLERK  
CITY OF KETCHUM  
POST OFFICE BOX 2315  
KETCHUM, IDAHO 83340**

---

**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22748**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_, 2021, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation (“Ketchum”), whose address is Post Office Box 2315, Ketchum, Idaho and JOEL and AMY BRAZIL, (collectively referred to as “Owner”), whose address is PO BOX 2457, KETCHUM, IDAHO 83340.

*RECITALS*

WHEREAS, Owner is the owner of real property described as 221 SAGE ROAD (“Subject Property”), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit placement of a concrete paver driveway within the right-of-way on SAGE ROAD. These improvements are shown in Exhibit “A” attached hereto and incorporated herein (collectively referred to as the “Improvements”); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

*TERMS AND CONDITIONS*

1. Ketchum shall permit Owner to maintain the improvements identified in Exhibit “A” within the public right-of-way of 221 SAGE ROAD, Idaho, until notified by Ketchum to remove the improvements at which time Owner shall remove improvements at Owner’s expense.

2. Owner shall be responsible for the maintenance of said Improvements. Any modification to the improvements identified in Exhibit “A” shall be approved by the City of Ketchum prior to any modifications taking place.

3. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material

part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

4. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

5. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

6. This Agreement shall be a covenant running with the Subject Property and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties and the respective heirs, personal representatives, successors and assigns of the parties hereof.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto, and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

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

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: \_\_\_\_\_  
Joel Brazil

By: \_\_\_\_\_  
Neil Bradshaw  
Its: Mayor

By: \_\_\_\_\_  
Amy Brazil

STATE OF \_\_\_\_\_, )  
  ) ss.  
County of \_\_\_\_\_  )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Joel Brazil, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF \_\_\_\_\_, )  
  ) ss.  
County of \_\_\_\_\_  )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Amy Brazil, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF IDAHO    )  
                                  ) ss.  
County of Blaine    )

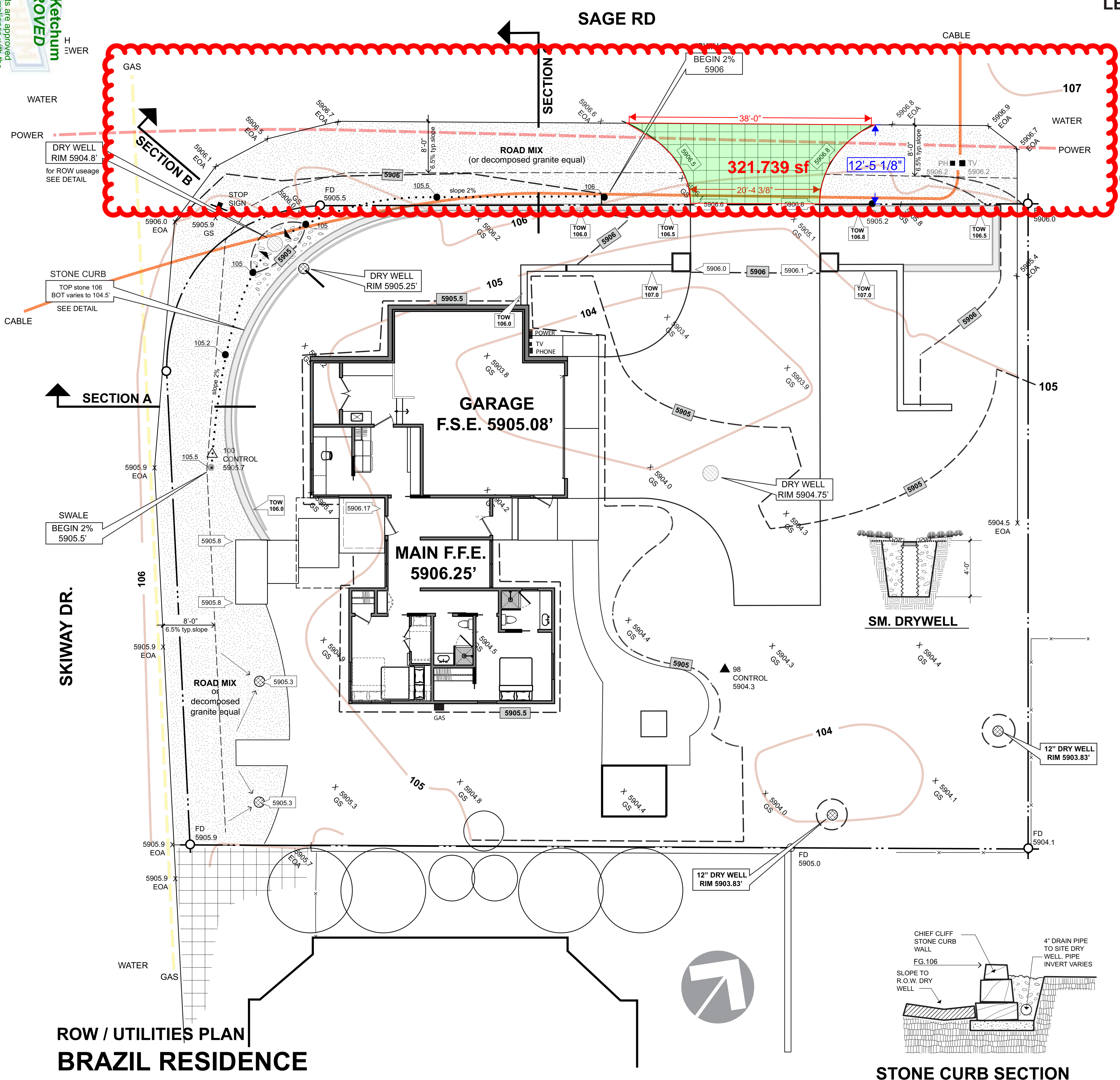
On this \_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

**EXHIBIT "A"**

BLD2007-00067  
 09/25/20  
 City of Ketchum  
**APPROVED**  
 These documents are approved contingent on compliance with the mark-ups and notes applied. This is not approval of any violation of any code, ordinance, statute or regulation.

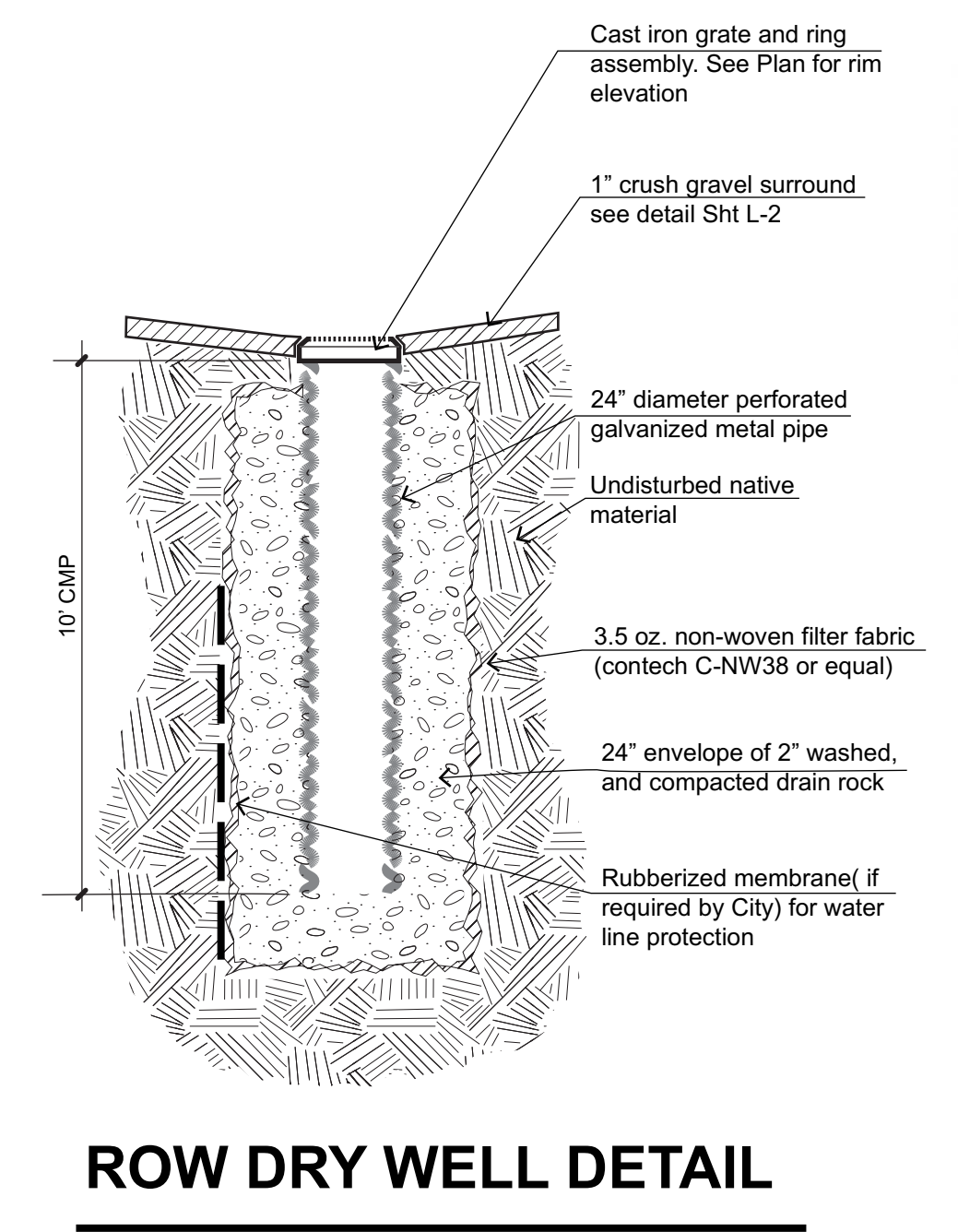


**ROW / UTILITIES PLAN  
 BRAZIL RESIDENCE**

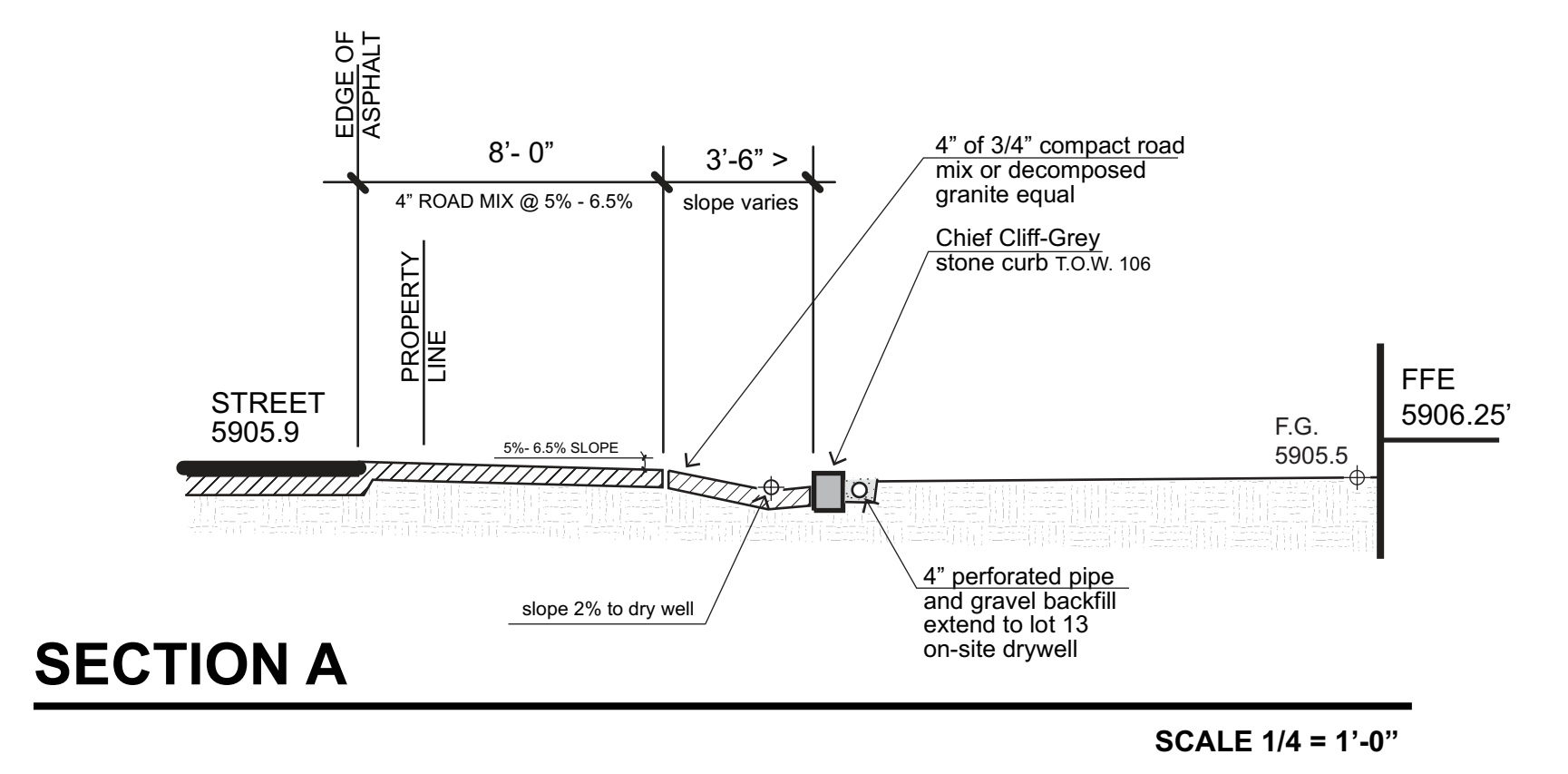
SCALE 1/8" = 1' - 0"

**LEGEND : GENERAL SITE**

- X 5906.8 EOA
- X 5903.4 GS
- X FD 5904.1
- PROPERTY LINE
- - - BUILDING ENVELOPE
- ..... COMPACTED ROAD MIX
- ..... CITY WATER LINE
- - - EXISTING FENCE
- - - EXISTING CONTOUR
- - - REVISED CONTOUR
- ▬ CHIEF CLIFF SM. STONE WALL 4 FT BASALT COLUMN
- ▬ SANDSTONE EDGING
- ▬ TOP OF WALL
- 5905.0 FINISHED GRADE ELEVATION
- ⊗ 12" DIA X 4 FT ADS DRY WELL
- ⊗ 24" DIA X 10 FT CMU DRY WELL

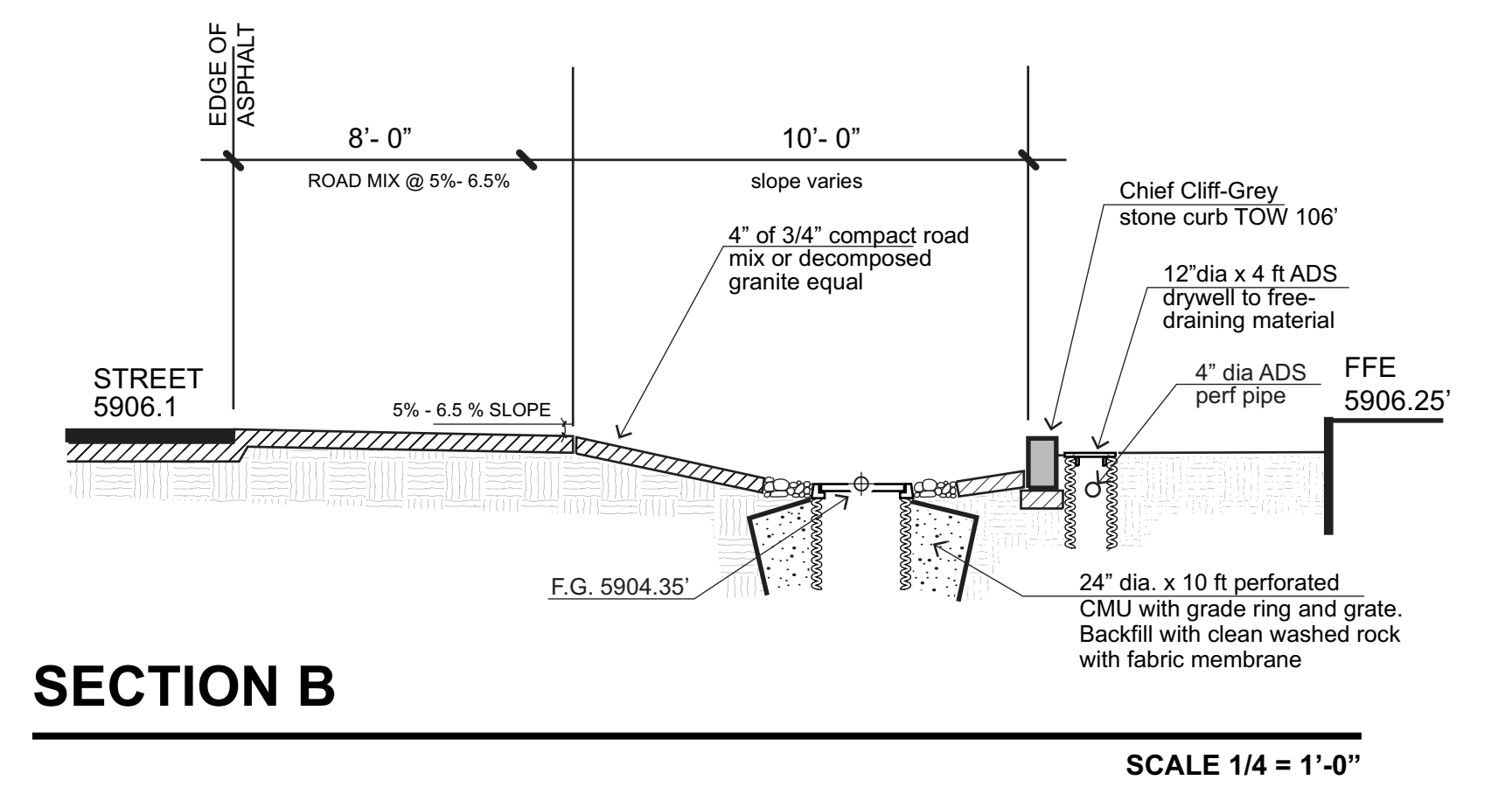


**ROW DRY WELL DETAIL**



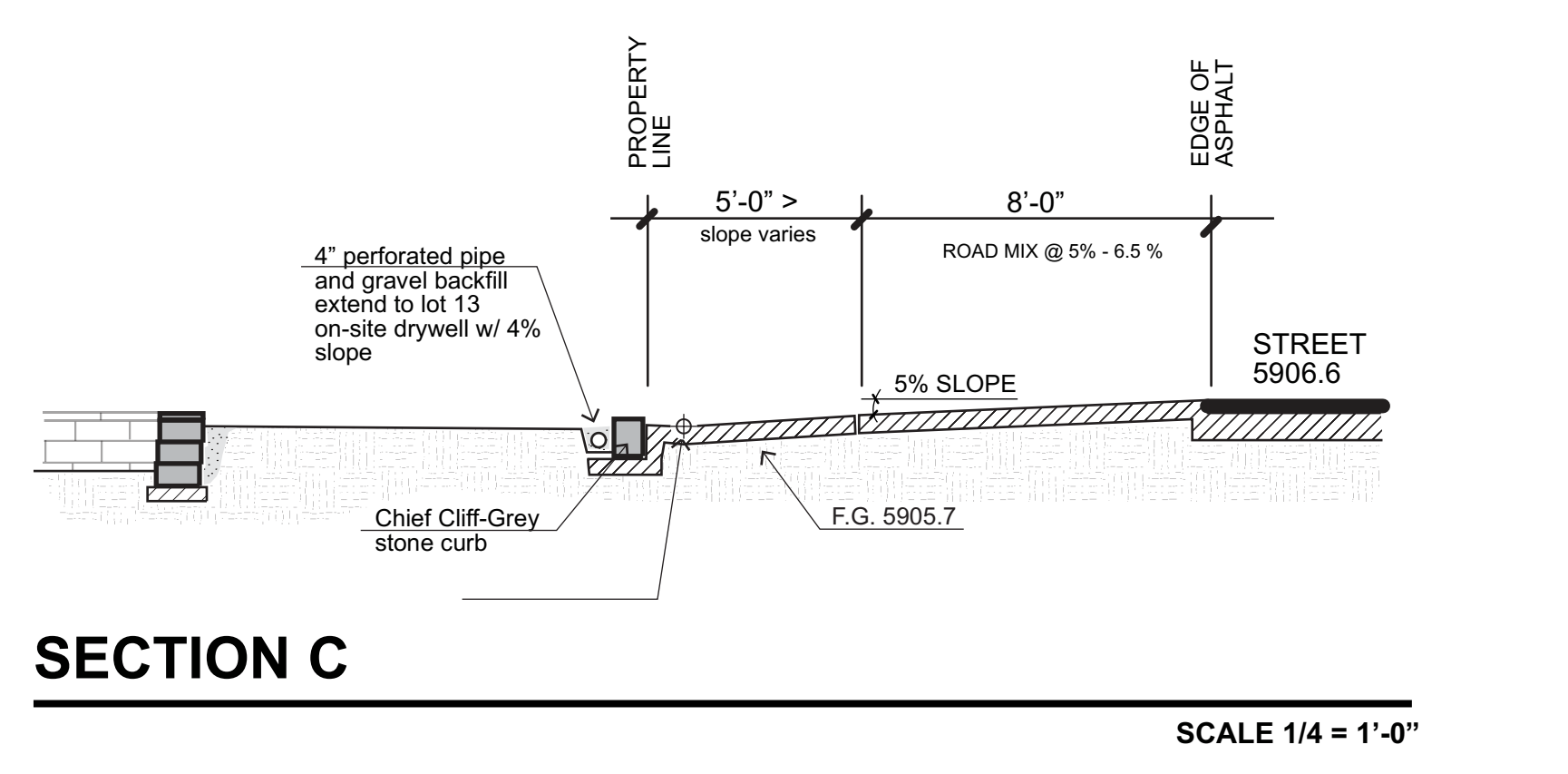
**SECTION A**

SCALE 1/4" = 1'-0"



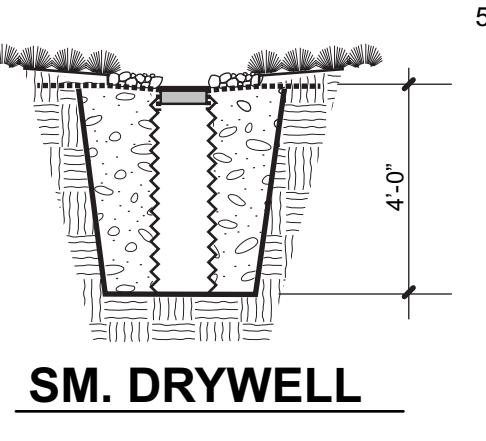
**SECTION B**

SCALE 1/4" = 1'-0"

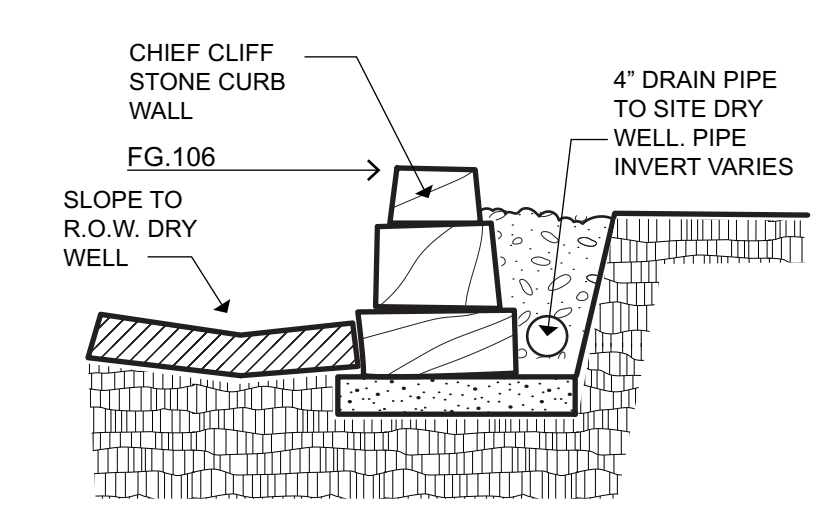


**SECTION C**

SCALE 1/4" = 1'-0"



**SM. DRYWELL**



**STONE CURB SECTION**

1/2" = 1' - 0"



**BRAZIL RESIDENCE**  
 LOT 1, BLOCK 2  
 WARM SPRINGS SUBDIVISION  
 KETCHUM, IDAHO

**STEVEN JOB**  
 landscape architecture • planning and graphics  
 box 857 • sun valley, idaho 85335 • 208.720.0649  
 landarch@cox.net



DRAWN S.E.J.  
 DATE 3/15/20

**L-2**



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Approve the 151 Topaz Street Subdivision Preliminary Plat**

#### Recommendation and Summary

Staff recommends the Ketchum City Council approve the Preliminary Plat and adopt the Findings of Fact, Conclusion on Law, and Decision for a subdivision submitted by Sean Flynn, PE, of Galena Engineering on behalf of the property owner, Sallie Castle. The request is a subdivision of Lot 2, Block 1 of the Gem Street Subdivision into two separate lots at 151 Topaz in the Limited Residential (LR) zone district.

Recommended Motion: "I move to approve the 151 Topaz Street subdivision preliminary plat application, as conditioned, and adopt the findings of fact, conclusions of law, and decision, as it conforms to all applicable subdivision regulations for a preliminary plat."

The reasons for the recommendation are as follows:

- The request meets all applicable standards for Preliminary Plats contained in Ketchum Municipal Code's Subdivision (Title 16) regulations.
- The Ketchum Planning and Zoning Commission reviewed the application and unanimously voted to recommend approval, as conditioned, on October 26, 2021.
- All city departments have reviewed the proposal and have no issue with the proposed subdivision.

#### Introduction and History

The Applicant is proposing to subdivide Lot 2 of the Gem Street Subdivision, located at 151 Topaz Street (the "subject property") into two lots (the "project"). The subject property is zoned Limited Residential (LR) and has an existing single family dwelling unit and detached garage. The project proposes to retain the existing single family dwelling unit and garage and create a new 9,000 square foot lot on the eastern portion of the existing lot. See Attachment B for the preliminary plat illustrating the location of the existing dwelling unit and proposed lot lines for the new lot.

The City of Ketchum received the application for Subdivision Preliminary Plat on April 5, 2021. The application was deemed complete on June 9, 2021, after one review for completeness. Following receipt of the complete application, staff routed the application materials to all city departments for review. Department comments were provided to the applicant on June 25, 2021. All department comments have been addressed satisfactorily.

#### Analysis

During Department Review, staff reviewed the preliminary plat application for conformance with KMC 16.04.030 – *Procedures for subdivision approval* and KMC 16.04.040 – *Development and Design*. Title 16 of the

KMC outline, subdivisions of land and required improvements shall be in conformance with the city's comprehensive plan and that lots created through the subdivision process meet the dimensional standards for the applicable zone district as outlined in Title 17.

As outlined in the proposed Findings of Fact (Attachment C), staff and the Planning and Zoning Commission believe the application conforms to the 2014 Ketchum Comprehensive Plan as it forwards the goals and policies in Chapter 3: *Housing*, Chapter 4: *Community Design and Neighborhoods*, and Chapter 9: *Public Safety and Utilities* that relate to the proposed application. Additionally, the application conforms to the "Low Density Residential" designation of the property on the Future Land Use Map (FLUM) within the plan.

As outlined in Attachment C, the proposed application meets all dimensional standards in the LR zone district including lot area, minimum lot width, and building setback lines.

Please see Attachment C for the review of all subdivision requirements and standards. Where "N/A" is checked, the standard is not applicable for one of the following reasons:

- The standard applies to the creation of new subdivisions or new infrastructure. The application does not propose any new streets, water or sewer extensions of main lines, or master drainage infrastructure.
- The standard applies to action that shall be taken at the final plat stage of the process and this application is for a preliminary plat.
- Per provisions of the standard, the City Engineer has determined that the standard does not apply.

Emerald Street is classified as a residential street, requiring a minimum right-of-way of 60 feet. Emerald Street, unlike some streets in the Gem Street Neighborhood, has partial designated right-of-way. However, the right-of-way is minimal. West of the property, the right-of-way is 25 feet but narrows to only 10 feet adjacent to the subject property, turning into a private driveway at the eastern property boundary. The subdivision regulations require that all streets meet the minimum standards as outlined in Chapter 12.04, however, this pertains to the creation of new subdivisions and the construction of new streets. The original Gem Street Subdivision, approved in November 2020, dedicated the 10 feet of right-of-way adjacent to the subject property. Additional right-of-way dedication to achieve a consistent 25 feet must come from the adjacent property to the north if or when it develops in the future. The goal for this application is to meet or exceed the minimum width and improvements required for efficient maintenance (primarily snow removal) and emergency service access.

The following items are required to achieve this:

- 5-foot Snow storage and utility easement along Emerald Street
- Designation of driveway curb cut location onto Emerald Street from the new lot, see recommended condition of approval #1
- Widening of pavement within the right of way to a consistent 20 feet from the western property boundary to the eastern side of the designated driveway access point of the new lot to meet minimum fire access requirements
- 20x20 access easement on the new lot for the city to facilitate maneuvering of snowplows or other equipment

Plat note #3 of the original Gem Street Subdivision noted that existing fences within the snow storage easement were allowed to remain until their respective lots are developed. This subdivision application is considered a "development", therefore, the fences along Emerald Street on the subject property must be removed prior to approval of the final plat. Staff recommends condition of approval #2 to address this item.

Staff recommends approval of the subdivision Preliminary Plat application with the following recommended Conditions of Approval:

1. Prior to construction of required improvements, construction plans for proposed improvements to Emerald Street shall be reviewed and approved by the City Engineer.



2. The Final Plat application shall include a plat note restricting construction of driveway curb cuts on the new lot to the turnaround access easement location as shown on the preliminary plat.
3. All fences located within snow storage easements must either be relocated or removed entirely and verified by a member of the City of Ketchum Planning staff, prior to approval of the Final Plat.
4. The Final Plat application shall not include Plat note 3 provided that all fences have been adequately removed or relocated.
5. All right-of-way improvements shall be completed and accepted by the City of Ketchum City Engineer prior to approval of the Final Plat.
6. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

#### Sustainability

The proposed preliminary plat does not limit the ability of the city to reach the goals of the Ketchum Sustainability Action Plan – 2020.

#### Financial Impact

There is no financial requirement from the city for this action.

#### Attachments

- A. Application and supplemental materials
- B. Preliminary Plat Plan Set
- C. Draft City Council Findings of Fact, Conclusions of Law, and Decision

# Attachment A: Application and Supplemental Materials



City of Ketchum  
Planning & Building

**CERTIFIED  
COMPLETE**

6-2-21  
mf

OFFICIAL USE ONLY	
Application Number:	P21-034
Date Received:	6-5-21
By:	mf
Fee Paid:	2600 <sup>00</sup>
Approved Date:	
By:	

Preliminary Plat

**Subdivision Application**

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 480 East Ave. N., Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: <i>Byoux</i> Subdivision		<i>Byoux Subdivision</i>	
Owner of Record: Sallie Castle			
Address of Owner: PO Box 2422, Ketchum, ID 83340			
Representative of Owner: Sean Flynn / Galena Engineering			
Legal Description: Lot 2, Block 1, Gem Street Subdivision			
Street Address: 151 Topaz Street			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 2			
Total Land Area: 33,093 Sq. Ft.			
Current Zoning District: LR			
Proposed Zoning District: LR			
Overlay District: None			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input checked="" type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet:			
Easements to be dedicated on the final plat:			
Public Utility Easements			
Briefly describe the improvements to be installed prior to final plat approval:			
Water and Sewer Services to Lot 2			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the preliminary plat			
All files should be submitted in an electronic format.			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortious conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

*Sean Flynn*

Sean Flynn / Galena Engineering

04/02/2021

Applicant Signature

Date

# GALENA ENGINEERING, INC.

CIVIL ENGINEERING & LAND SURVEYING

## TRANSMITTAL LETTER

DATE: April 2, 2021

TO: Abby Riven, Planner  
City of Ketchum  
480 East Avenue North  
Ketchum, ID 83340

SUBJECT: Castle Subdivision Preliminary Plat Application

TRANSMITTED: X Herewith  
  
Separate Cover  
  
By Carrier

REMARKS:

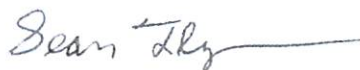
Abby,

Attached please find:

- Application
- Application fee of \$2600 (\$1300 per lot)
- 1 copy of the preliminary plat (with and without aerial)
- Title Report and Deed

This application is to subdivide Lot 2 of Gem Street Subdivision, into 2 lots. Please feel free to contact me if you have any questions or comments, or if you need any additional information. I appreciate your assistance.

Sincerely,



Sean Flynn, PE  
GALENA ENGINEERING, INC.



# ALTA OWNER'S POLICY OF TITLE INSURANCE

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.**

## COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation, (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.

Countersigned by:

Authorized Countersignature

Blaine County Title, Inc.  
360 Sun Valley Road  
P.O. Box 3176  
Ketchum, ID 83340  
(208) 726-0700  
Agent ID: 120037



Frederick H. Eppinger  
President and CEO

Denise Carraux  
Secretary

For coverage information or assistance resolving a complaint, call (800) 729-1902 or visit [www.stewart.com](http://www.stewart.com). To make a claim, furnish written notice in accordance with Section 3 of the Conditions.

Copyright 2006-2009 American Land Title Association. All rights reserved.

The use of this Form is restricted to ALTA licensees and ALTA members in good standing as of the date of use.

All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No. 2022464

ALTA Owner's Policy 06-17-06

Page 1 of 4 of Policy Serial No.: O-0000-340873208



## COVERED RISKS (Continued)

9. Title being vested other than as stated in Schedule A or being defective
- (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
- (i) to be timely; or
  - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.
- The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;

- (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
    - (a) a fraudulent conveyance or fraudulent transfer; or
    - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
  5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) the term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured.
      - (2) if the grantee wholly owns the named Insured.
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the

Insured named in Schedule A for estate planning purposes.

- (ii) with regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

## CONDITIONS (Continued)

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

### 5. DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.
- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

### 6. DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the

Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

### 7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance. To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
  - (i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or
  - (ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

## CONDITIONS (Continued)

### 8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
  - (i) the Amount of Insurance; or
  - (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,
  - (i) the Amount of Insurance shall be increased by 10%, and
  - (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

### 9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

### 11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

### 12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

### 13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

### 14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

### 16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

### 17. CHOICE OF LAW; FORUM

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

### 18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Claims Department at P.O. Box 2029, Houston, TX 77252-2029.



**ALTA OWNER'S POLICY OF TITLE INSURANCE  
SCHEDULE A**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**Name and Address of  
Title Insurance Company:**

Stewart Title Guaranty Company  
P.O. Box 2029, Houston, TX 77252

**File No.:** 2022464

**Policy No.:** O-0000-340873208

**Address Reference:** 151 Topaz St., Ketchum, ID 83340  
(For Company Reference Purposes Only)

**Amount of Insurance:** \$1,475,000.00

**Premium:** \$3,730.00

**Date of Policy:** November 25, 2020 at 1:20pm

**1. Name of Insured:**

Sallie Castle

**2. The estate or interest in the Land that is insured by this policy is:**

Fee Simple

**3. Title is vested in:**

Sallie Castle

**4. The Land referred to in this policy is described as follows:**

Lot 2, Block 1 of GEM STREET SUBDIVISION, as shown on the official plat thereof, recorded as Instrument No. 675967, records of Blaine County, Idaho.

## SCHEDULE B

File No.: 2022464

Policy No.: O-0000-340873208

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by public record.
2. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, liens, or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims, or title to water.
6. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. Stewart makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interest that are not listed.
8. General taxes for the year 2021 and subsequent years, which are a lien due not yet payable.
9. Water and sewer charges of the City of Ketchum.
10. Ketchum rubbish charges billed by Clear Creek Disposal.
11. Facts evidenced by that certain Survey, recorded June 8, 2018, as [Instrument No. 652396](#), records of Blaine County, Idaho.
12. Indemnity Agreement, including the terms and provisions thereof, by and between Fritz X. Haemmerle and Reli L. Haemmerle and the City of Ketchum, recorded November 20, 2020 as [Instrument No. 675966](#), records of Blaine County, Idaho.
13. Notes, Easements and Restrictions, as shown on the plat of Gem Street Subdivision, recorded November 20, 2020 as [Instrument No. 675967](#), records of Blaine County, Idaho.



## SCHEDULE B



CZ

**INDEMNITY AGREEMENT**

Effective this 12<sup>th</sup> day of November 2020, Fritz X. Haemmerle and Reli L. Haemmerle (collectively "Owners") and the City of Ketchum ("City"), hereby enter into this Indemnity Agreement ("Agreement") as follows:

**RECITALS:**

WHEREAS the City approved a lot line shift Application filed by the Owners;

WHEREAS, as part of the approval, the City estlashed certain right of ways and snow storage easements for the Lots. The Lots are described as follows:

Lots 1 and 2, Gem Street Subdivisions, according to the Official Plat of record, records of Blaine County, State of Idaho.

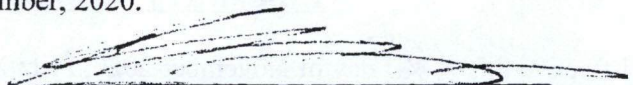
WHEREAS, the City allowed the Owners to keep their fences in place as a condition of approval of the Application, provided the Owners indemnify and hold the City harmless for damages caused to the fences by the City, so long as the existing fences are located in the right of way or snow storage easements; now therefore

The Parties AGREE AS FOLLOWS:

1. Incorporation of Recitals. The Recitals are incorporated into and made a part of this Agreement.
2. Indemnification. So long as the existing fences are located within the right of way or snow storage easements, as set out in the Gem Street Subdivision Plat, the Owners, on behalf of their agents affiliates, attorneys, successors, and assigns, do fully, finally and forever release and discharge the City against all loses and expenses arising from the City's maintenance of its street, right of ways or easements. If the fences are relocated out of the right of ways or snow storage easement, this indemnification is null and void.
3. Governing Law, Jurisdiction and Venue. This Settlement Agreement and Mutual Release shall be governed by the laws of the State of Idaho. Jurisdiction and venue shall be in Blaine County, State of Idaho.
4. Entire Agreement. This Agreement, together with the accompanying exhibit, constitutes the entire, completely integrated agreement among the parties and supersedes all prior memoranda, agreements, correspondence, conversations, and negotiations.
5. Binding Effect. This Agreement and the Exhibits attached hereto shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors and permitted assigns.

INDEMNITY AGREEMENT - 1

Date: This 12 day of November, 2020.



Owner, Reli L. Haemmerle

STATE OF IDAHO )


)ss.

COUNTY OF BLAINE. )

On this 12 day of Nov. 2020, before me, the subscriber, a Notary Public in and for said State and County, personally appeared Reli L. Haemmerle, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that executed the same as his voluntary act.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.



  
(Signature of Notary)


My Commission Expires: 8/18/21

6. Counterparts and Fax Signatures. This Settlement Agreement and Mutual Release may be executed 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. All parties may sign this Settlement Agreement and Mutual Release with fax signatures.

7. Attorney Fees and Costs. In the event of a dispute arises between the parties regarding the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover from the other party his reasonable attorney's fees and costs incurred therein whether or not a lawsuit is ever filed and on any appeals.

For OWNERS:

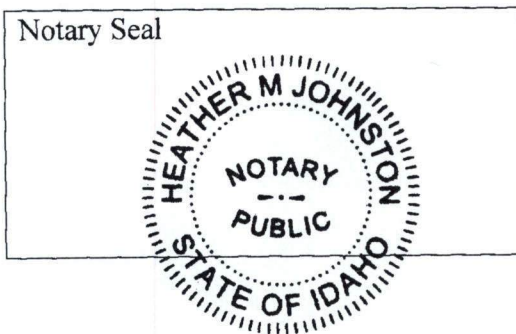
Date: This 12<sup>th</sup> day of November, 2020.

  
Owner, Fritz X. Haemmerle

STATE OF IDAHO )  
 )ss.  
COUNTY OF BLAINE. )

On this 12<sup>th</sup> day of November 2020, before me, the subscriber, a Notary Public in and for said State and County, personally appeared Fritz X. Haemmerle, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that executed the same as his voluntary act.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.



  
(Signature of Notary)

My Commission Expires: 9-14-2020

Electronically recorded – Do not  
remove the county stamped first  
page as it is now incorporated as  
part of the original document.



### WARRANTY DEED

FOR VALUE RECEIVED

Fritz Xavier Haemmerle, a married man dealing with his sole and separate property, fifty percent (50%) interest and Reli Louise Haemmerle . an unmarried woman, fifty percent (50%) interest

GRANTOR(S), hereby grants, bargains, sells, conveys and warrants unto

Sallie Castle, an unmarried woman

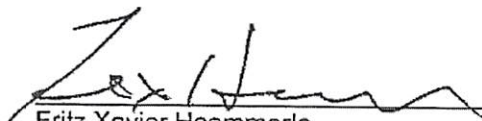
GRANTEE(S) whose current address is: P.O. Box 2422, Ketchum, ID 83340

the following described premises, to-wit:

Lot 2, Block 1 of GEM STREET SUBDIVISION, as shown on the official plat thereof, recorded as Instrument No. 675967, records of Blaine County, Idaho.

**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

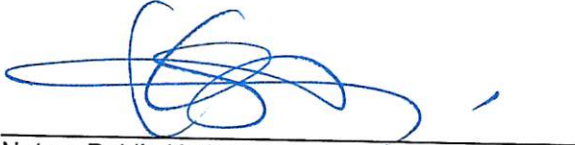
Dated this 25 day of November, 2020.

  
Fritz Xavier Haemmerle

  
Reli Louise Haemmerle

State of Idaho  
County of Blaine

This record was acknowledged before me on 25 day of November, 2020, by Fritz Xavier Haemmerle and Reli Louise Haemmerle.



Notary Public Kathy Seal  
My Commission Expires: 7.26.2023

(STAMP)





# Attachment B: Preliminary Plat Plan Set

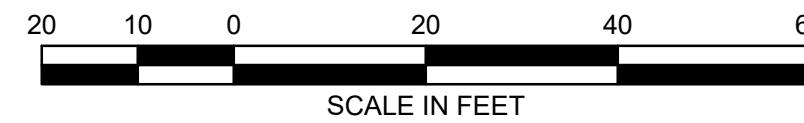
# A PLAT SHOWING REPLAT OF LOT 2 GEM STREET SUBDIVISION

WHEREIN LOT 2, BLOCK 1, GEM STREET SUBDIVISION IS SUBDIVIDED AS SHOWN HEREON  
LOCATED WITHIN SECTION 18, T.4N., R.18E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

AUGUST 2021

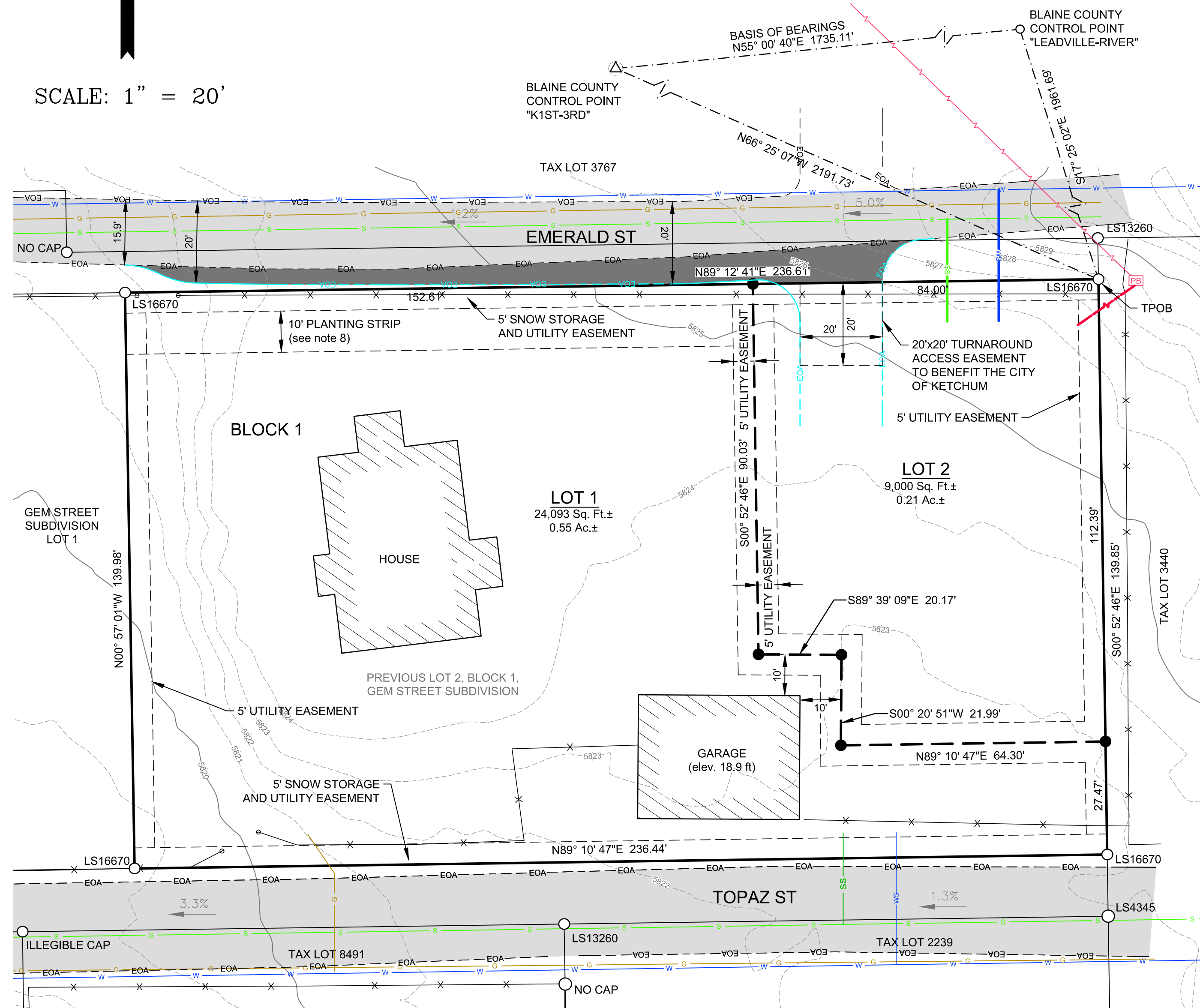


SCALE: 1" = 20'



### LEGEND

	Property Boundary
	Proposed Lot Line
	Adjoiner's Lot Line
	Easement, Type & Width as Shown
	Fence Line
	GIS Tie Line
	Existing Sewer Main
	Existing Sewer Service
	Proposed 4" Sewer Service
	Existing Water Main
	Existing Water Service
	Proposed 3/4" Water Service
	Existing Gas Line
	Existing Overhead Powerline
	Proposed Underground Power Service
	1' Contour Interval
	5' Contour Interval
	Existing Edge of Asphalt Line
	Proposed Edge of Asphalt Line
	Existing Building
	Proposed Building
	Found Aluminum Cap
	Found 1/2" Rebar
	Found 5/8" Rebar
	Set 5/8" Rebar, P.L.S. 16670
	Approximate Existing Drainage Direction and Grade
	Existing Power Transformer



### SURVEY NARRATIVE & NOTES

- The purpose of this survey is to subdivide Lot 2, Block 1, Gem Street Subdivision into Lots 1 & 2, Block 1, Replat of Lot 2 Gem Street Subdivision as shown hereon. The boundary shown is based on found monuments, and the plat of Gem Street Subdivision, Instrument Number 675966, records of Blaine County, Idaho. All found monuments have been accepted. Additional Documents used in the course of this survey include; Warranty Deeds, Instrument Numbers 132181, 132252, 229345, & 285434, all records of Blaine County, Idaho.
- A Title Commitment has been issued by Stewart Title Guaranty Company, File Number 2022464, with a Date of Guarantee of November 25, 2020. Certain information contained in said title policy may not appear on this map or may affect items shown hereon. It is the responsibility of the owner or agent to review said title policy. All plottable encumbrances and easements listed in the title report are shown hereon. Review of specific documents is required, if further information is desired.
- As shown hereon, there are existing fences within the proposed snow storage easements. Said fences will be allowed to remain until their respective lots are developed. At that time, the fences will be required to be removed from the snow storage easements, and these easements will be required to be kept clear of obstructions. An indemnification agreement is recorded under Instrument Number 675966, records of Blaine County Idaho, to indemnify the City of Ketchum from any damage to the fences prior to their removal.
- The current zoning is Limited Residential. Refer to the City of Ketchum Zoning Ordinance for more information about this zone.
- The owner and subdivider is Sallie Castle, PO Box 2422, Ketchum, ID 83343. The representative is Sean Flynn, Galena Engineering, Inc., 317 N River St., Hailey, ID 83333.
- A 5' Utility Easement exists adjacent to all exterior lot lines and centered along all interior lot lines. All utilities to be installed underground.
- Parking of cars and other vehicles is prohibited along Emerald and Topaz Street within the City Right of Way, or within any asphalted areas of the Streets.
- A 10' planting strip on Lot 1, as shown hereon, shall be devoted exclusively to landscaping. No vehicular access from Lot 1 onto Emerald Street is permitted.
- A 5' snow storage easement, as shown hereon, is reserved for use by the City of Ketchum for the placement of snow removed from public rights-of-way.

HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

Date \_\_\_\_\_ South Central Public Health District



REPLAT OF LOT 2 GEM STREET SUBDIVISION  
 GALENA ENGINEERING, INC.  
 HAILEY, IDAHO  
 SHEET 1 OF 2  
 Job No. 8074

### CERTIFICATE OF OWNERSHIP

This is to certify that the undersigned is the owner in fee simple of the following described parcel of land:

A parcel of land located within Section 18, T.4N., R.18E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

Lot 2, Gem Street Subdivision

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements.

I do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of units shown within this plat.

It is the intent of the owner to hereby include said land in this plat.

\_\_\_\_\_  
Sallie Castle

### ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me, a Notary Public in and for said State, personally appeared Sallie Castle, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

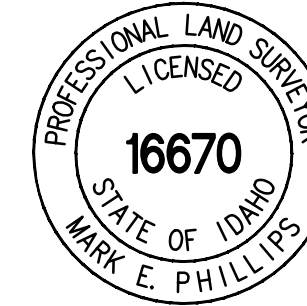
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for said State  
Residing in \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

### SURVEYOR'S CERTIFICATE

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.

Mark E. Phillips, P.L.S. 16670



### BLAINE COUNTY SURVEYOR'S APPROVAL

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys

\_\_\_\_\_  
Sam Young, P.L.S. 11577  
Blaine County Surveyor

\_\_\_\_\_  
Date

### KETCHUM CITY ENGINEER'S APPROVAL

The foregoing plat was approved by \_\_\_\_\_, City Engineer for the City of Ketchum on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
City Engineer

### KETCHUM CITY COUNCIL'S APPROVAL

I, \_\_\_\_\_, Planner in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision-Ordinance.

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Certified by City Clerk

By: \_\_\_\_\_

\_\_\_\_\_  
Date

### BLAINE COUNTY TREASURER'S APPROVAL

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

\_\_\_\_\_  
Blaine County Treasurer

\_\_\_\_\_  
Date

### BLAINE COUNTY RECORDER'S CERTIFICATE

REPLAT OF LOT 2 GEM  
STREET SUBDIVISION  
GALENA ENGINEERING, INC.  
HAILEY, IDAHO  
SHEET 2 OF 2  
Job No. 8074

**Attachment C:**  
**Draft City Council Findings of  
Fact, Conclusions of Law, and  
Decision**



City of Ketchum  
Planning & Building

IN RE:	)	
	)	
151 Topaz Street	)	<b>KETCHUM CITY COUNCIL</b>
Subdivision – Preliminary Plat	)	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND</b>
Date: November 18, 2021	)	<b>DECISION</b>
	)	
File Number: 21-034	)	

PROJECT: 151 Topaz Street Subdivision

APPLICATION TYPE: Subdivision – Preliminary Plat

FILE NUMBER: P21-034

ASSOCIATED APPLICATIONS: None

REPRESENTATIVE: Sean Flynn, Galena Engineering (Engineer)

OWNER: Sallie Castle

LOCATION: 151 Topaz (Lot 2, Block 1 – Gem Street Subdivision)

ZONING: Limited Residential (LR)

OVERLAY: None

**RECORD OF PROCEEDINGS**

The City of Ketchum received the application for Subdivision Preliminary Plat on April 5, 2021. The application was deemed complete on June 9, 2021, after one review for completeness. Following receipt of the complete application, staff routed the application materials to all city departments for review. Department comments were provided to the applicant on June 25, 2021.

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on October 6, 2021. The public hearing notice was published in the Idaho Mountain Express and the city’s website on October 6, 2021. A notice was posted on the project site on October 19, 2021.

The Planning & Zoning Commission (the “Commission”) considered the Subdivision Preliminary Plat application (Application File No. P21-034) during the regular meeting on October 26, 2021. After considering Staff’s analysis, the applicant’s presentation, and public comment, the Commission voted

to recommended approval of the Subdivision Preliminary Plat application to the City Council with a vote of 4 to 1.

### **BACKGROUND**

The Applicant is proposing to subdivide Lot 2 of the Gem Street Subdivision, located at 151 Topaz Street (the “subject property”) into two lots (the “project”). The subject property is zoned Limited Residential (LR) and has an existing single family dwelling unit and detached garage. The project proposes to retain the existing single family dwelling unit and garage and create a new 9,000 square foot lot on the eastern portion of the existing lot. See Attachment B for the preliminary plat illustrating the location of the existing dwelling unit and proposed lot lines for the new lot.

### **FINDINGS OF FACT**

The Council, having reviewed the entire project record, provided notice, conducted the required public hearing, and considered the recommendation from the Planning and Zoning Commission, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

#### **FINDINGS REGARDING CONFORMANCE WITH THE COMPREHENSIVE PLAN**

The City of Ketchum adopted the 2014 Comprehensive Plan (the “plan”) on February 18, 2014. The plan outlines the community vision and core values for the city. Using those, the plan outlines goals and policy objectives to reach key goals for the community related to the economy, housing, neighborhoods, parks and recreation, open space, public safety, and others. The plan also includes a Future Land Use Map (FLUM) that identifies possible future land uses for properties to achieve desirable land use patterns for the city.

Specifically, the plan includes goals and policies in Chapter 3: Housing, Chapter 4: Community Design and Neighborhoods, and Chapter 9: Public Safety and Utilities that relate to the proposed application.

- Housing Goal H-1: Ketchum will increase its supply of homes, including rental and special-needs housing for low, moderate, and median-income households.
  - Although the city cannot require the future owner or development of the proposed lot be targeted for a certain type of household or income category, the addition of a lot provides an opportunity to construct one additional dwelling unit and one additional accessory dwelling unit than exists today. Policy H-1.3 of this goal discusses the desire to integrate affordable housing into neighborhoods. Additionally, Policy H-1.5 states that “the community will continue to support and encourage construction of accessory dwelling units within residential areas to provide affordable housing.” The approval of the proposed application assists in achieving these goals.
- Community Design and Neighborhoods Goal CD-1: Our community will preserve its small-town character and the distinct image of neighborhoods and districts.
  - Policy CD-1.3 discusses infill and redevelopment projects. The policy emphasizes the importance of contextually appropriate projects. Specifically, projects should consider natural and manmade features adjoining a development site, not a certain style. In contrast to that, the plan also states that each neighborhood or district should include a mix of design elements that will reinforce its unique design (Policy CD-1.1). The subject property is located within the Gem Street Neighborhood, one of the oldest and least modified neighborhoods in the community. Many of the lots are large with smaller footprint log cabin or A-frame residential dwelling units. Some properties include a detached garage in addition to the primary dwelling unit. The subject property is one of

the larger lots in the Gem Street Neighborhood, equivalent to almost four of the properties found to the south and west. As the application is a request to create one lot, not multiple lots, the perceived impact of the subdivision may be less.

- Subdivision of property often results in the construction of new homes, sometimes reflective of current architectural trends or styles that may contradict the unique design of the neighborhood as it sits today. Although the lot sizes may be like the surrounding neighborhood, design of the future structure may differ. Design review is not required for single family dwelling units.
- Public Safety and Utilities Goal PDU-3: Provide safety related capital improvements in conjunction with new development.
  - Policy PSU-3.2 outlines that infill development and redevelopment should be encouraged where excess utility capacity is available. Policy PSU-1.1 discusses that the city will continue to provide high-quality police and emergency services. The Gem Streets are a neighborhood where providing street maintenance and emergency services is very challenging. Most areas do not have dedicated public right-of-way and where right-of-way exists, it is substandard in width and level of improvements. Public improvements required for redevelopment of property is one of the few ways the city can offer greater levels of service to the neighborhood through right-of-way dedications and physical improvements to streets and drainage.
- Future Land Use Map (FLUM)
  - The FLUM designates the subject property as “Low Density Residential”. Primary uses for this land use designation include “Single-family and duplex residences and accessory units.” The plan also states that “the average density of a residential area in this category is not to exceed about five units per acre.” A density of five units per acre equates to approximately one primary dwelling unit per 8,700 square feet of land. The new lot is 9,000 square feet, which is the minimum lot size in the LR zone district. Accessory dwelling units are not counted in density calculations as they are considered accessory and optional.

Although the subdivision of the property may result in new development with a different design than exists today, the request to subdivide the property is in conformance with the FLUM and forwards many policies aimed at housing and public safety.

### FINDINGS REGARDING PRELIMINARY PLAT SUBDIVISION REQUIREMENTS

Preliminary Plat Requirements				
Compliant			City Code	City Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	<b>The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.</b>
			<i>Findings</i>	The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on April 5, 2021.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	<b>Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.</b>
			<i>Findings</i>	The subdivision application was deemed complete on June 25, 2021.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following:  The scale, north point and date.
			<i>Findings</i>	This standard is met as shown on Sheet 1 of the preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat, the application is a replat of Lot 2 of the existing Gem Street Subdivision. As this is a subdivision of an existing lot, the subdivision name remains the same.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Findings</i>	As shown on Sheets 1 and 2, the owner and subdivider is Sallie Castle. The plat was prepared by Mark Phillips of Galena Engineering.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .4	Legal description of the area platted.
			<i>Findings</i>	The legal description of the area platted is shown in the Certificate of Ownership on Sheet 2 of the preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Findings</i>	Sheet 1 of the preliminary plat indicates the boundary lines of the adjoining tax lots to the east, north, and south, as well as the lot within the Warm Springs Subdivision to the west.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Findings</i>	Sheet 1 of the preliminary plat shows the contour lines for the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I 7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Findings</i>	Sheet 1 of the preliminary plat shows the location of the existing dwelling unit and detached garage on Lot 1 and all adjacent streets. Sheet 1 also indicates the snow storage and utility easement, and turnaround access easement on the northern property boundary, and utility easements along all property lines.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .8	Boundary description and the area of the tract.
			<i>Findings</i>	Sheet 1 provides the boundary description of the area and includes square footage and acreage of both lots.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .9	Existing zoning of the tract.
			<i>Findings</i>	Plat note #4 on Sheet 1 of the preliminary plat lists the existing zoning of the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .10	The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.
			<i>Findings</i>	No new streets or blocks are proposed for the project; however, Sheet 1 of the preliminary plat includes names and dimensions of all existing right-of-way for Emerald Street to the north and Topaz Street to the south. Sheet 1 of the preliminary plat shows the locations and lot lines for the proposed lots.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .11	The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.



			<i>Findings</i>	This standard is not applicable as there is no requirement or proposal for land dedicated for public or common use.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .12	<b>The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.</b>
			<i>Findings</i>	As shown on Sheet 1, the existing dwelling unit is currently served by city water and sewer. The new lot will have separate services for water and sewer from the main lines in Emerald Street as shown on Sheet 1 of the preliminary plat.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .13	<b>The direction of drainage, flow and approximate grade of all streets.</b>
			<i>Findings</i>	This standard does not apply as no new streets are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .14	<b>The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.</b>
			<i>Findings</i>	This standard does not apply as no new drainage canals or structures are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .15	<b>All percolation tests and/or exploratory pit excavations required by state health authorities.</b>
			<i>Findings</i>	This standard does not apply as no addition tests are required.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .16	<b>A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.</b>
			<i>Findings</i>	This standard does not apply as this preliminary plat application is not for a townhouse or condominium subdivision and no commonly owned land or facilities are proposed.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .17	<b>Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.</b>
			<i>Findings</i>	Sheet 1 of the preliminary plat shows the surrounding streets. There are no collector streets within this are of the Gem Street Neighborhood as the streets are dead ends. Highway 75 is the closest arterial, located just west of the subject property.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .18	<b>The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.</b>
			<i>Findings</i>	The subject property is not within a floodplain, floodway, or avalanche zone district.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .19	<b>Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.</b>
			<i>Findings</i>	A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25% and is not adjacent to an intersection.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .20	<b>Lot area of each lot.</b>

			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat, the area of Lot 1 is 24,093 square feet and the area of Lot 2 is 9,000 square feet.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .21	<b>Existing mature trees and established shrub masses.</b>
			<i>Findings</i>	As verified by a site visit with city staff, the subject property includes multiple mature trees, primarily on Lot 1. Lot 2 contains some shrubs in the northeast corner where the property slopes uphill toward the right-of-way of Emerald Street. None of the trees on Lot 1 are within the snow storage easement. A 10-foot-wide planting strip is noted for Lot 1 as the existing lot is a nonconforming double frontage lot. Per plat note #8, the planting strip along Lot 1 shall be devoted exclusively to landscaping. No vehicular access from Lot 1 onto Emerald Street is permitted.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .22	<b>A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.</b>
			<i>Findings</i>	The applicant provided a title commitment issued by Stewart Title dated November 25, 2020 and a warranty deed recorded on November 25, 2020 with the Blaine County Clerk and Recorder.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .23	<b>Three (3) copies of the preliminary plat shall be filed with the administrator.</b>
			<i>Findings</i>	The City of Ketchum received hard and digital copies of the preliminary plat at the time of application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	<b>Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.</b>
			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat, all proposed improvements to the public right-of-way are shown. As outlined in condition of approval #4, all right-of-way improvements are required prior to approval of the Final Plat. The subject property does not include any watercourses, rock outcroppings, significant shrub masses or historic areas. At this time, a development proposal has not been submitted for the future use of the property. All future development plans must comply with all applicable provisions of Title 17, including KMC 17.124.170 – Minimum standards for one-family dwellings.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	<b>Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.</b>
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application. Compliance with this standard will be required for Final Plat application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.C	<b>Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required</b>

				<p>improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</p>
			<i>Findings</i>	As noted in condition of approval #4, all required improvements must be complete prior to approval of the Final Plat.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	<p><b>As Built Drawing:</b> Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application. Compliance with this standard will be required for Final Plat application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.E	<p><b>Monumentation:</b> Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application. Compliance with this standard will be required for Final Plat application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p><b>Lot Requirements:</b></p> <ol style="list-style-type: none"> <li>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</li> <li>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so</li> </ol>

			<p>affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</p> <ul style="list-style-type: none"> <li>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</li> <li>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</li> </ul> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
		<p><i>Findings</i></p>	<ul style="list-style-type: none"> <li>1. The proposed townhouse subdivision meets all dimensional standards as outlined in the LR zone district. The minimum lot size is 9,000 square feet. Lot 1 and Lot 2 are 24,093 square feet and 9,000 square feet. Future development of Lot 2 must comply with setback requirements in the LR zone district. The existing structures on Lot 1 meet setback requirements for the LR zone district. The required minimum lot width in the LR zone district is "80 feet average". The average is taken by measuring the width of the lot in 10-foot increments and taking the average of all measurements. Using this methodology, the average lot width for Lot 1 is greater than 152.6 feet and 80 feet for Lot 2.</li> <li>2. Building envelopes are not required as the subject property is not within the floodplain/floodway, avalanche zone, does not contain slopes greater than 25%, nor is it located adjacent to an intersection of two streets</li> <li>3. The subject property is not a corner lot.</li> <li>4. The newly created Lot 2 is within 20 degrees to a right angle to the street lot line along Emerald Street.</li> <li>5. The subject property is not a double frontage lot. Lot 1 is an existing double frontage lot that was previously approved as part of the original Gem Street Subdivision in November 2020. A 10-foot planting strip has been added to Lot 1, restricting vehicular access from Emerald Street.</li> </ul>

				6. Both lots have a minimum of 20 feet of frontage on Emerald Street or Topaz Street. Lot 1 has 236.44 feet of frontage on Topaz Street and Lot 2 has 84 feet of frontage on Emerald Street.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p>G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</li> <li>4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</li> </ol>
			<i>Findings</i>	This standard does not apply as no new blocks are being created.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p>Street Improvement Requirements:</p> <ol style="list-style-type: none"> <li>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</li> <li>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</li> <li>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</li> <li>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</li> <li>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</li> <li>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</li> <li>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</li> <li>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from</li> </ol>

			<p>entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.</p>
			<p>Emerald Street is classified as a residential street, requiring a minimum right-of-way of 60 feet. Emerald Street, unlike some streets in the Gem Street</p>

				<p>Neighborhood, has a designated right-of-way. However, the right-of-way is minimal. West of the property, the right-of-way is 25 feet but narrows to only 10 feet adjacent to the subject property, turning into a private driveway at the eastern property boundary. The subdivision regulations require that all streets meet the minimum standards as outlined in Chapter 12.04, however, this pertains to the creation of new subdivisions and the construction of new streets. The original Gem Street Subdivision, approved in November 2020, dedicated the 10 feet of right-of-way adjacent to the subject property. Additional right-of-way dedication to achieve a consistent 25 feet must come from the adjacent property to the north if or when it develops in the future. The goal for this application is to meet or exceed the minimum width and improvements required for efficient maintenance (primarily snow removal) and emergency service access. The following items are required to achieve this:</p> <ul style="list-style-type: none"> <li>• 5-foot Snow storage and utility easement along Emerald Street</li> <li>• Designation of driveway curb cut location onto Emerald Street from the new lot, see recommended condition of approval #1</li> <li>• Widening of pavement within the right of way to a consistent 20 feet from the western property boundary to the eastern side of the designated driveway access point of the new lot to meet minimum fire access requirements</li> <li>• 20x20 access easement on the new lot for the city to facilitate maneuvering of snowplows or other equipment</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	<p><b>Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</b></p>
			<i>Findings</i>	This standard does not apply as the subject property is not within a business, commercial, or light-industrial zone district.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p><b>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</b></p> <ol style="list-style-type: none"> <li>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</li> <li>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</li> <li>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that</li> </ol>

			<p>easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
		<i>Findings</i>	<p>As shown on Sheet 1 of the preliminary plat, Lot 1 and Lot 2 include a 5-foot snow storage and utility easement. Lot 2 includes a 20x20 foot turnaround access easement for maneuvering of snowplows during the winter months. Both lots include 5-foot utility easements along all property boundaries.</p> <p>Standards 2-6 do not apply to the project as the property is not adjacent to any of the listed waterways, not adjacent to Warm Springs, does not contain any irrigation infrastructure, and does not include pedestrian or equestrian pathways.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.K</b></p> <p><b>Sanitary Sewage Disposal Improvements:</b> Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
		<i>Findings</i>	<p>This standard does not apply as this application does not create a new subdivision. Lot 1 is connected to the City of Ketchum sewer system main located in Topaz Street. Lot 2 will be connected to the City of Ketchum sewer system main located in Emerald Street.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.L</b></p> <p><b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall</p>



			<p>be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.</p>
			<p><i>Findings</i></p> <p>This standard does not apply as this application does not create a new subdivision. Lot 1 is connected to the City of Ketchum water system main located in Topaz Street. Lot 2 will be connected to the City of Ketchum water system main located in Emerald Street.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.M</b></p> <p><b>Planting Strip Improvements:</b> Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off-street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.</p>
			<p><i>Findings</i></p> <p>As outlined in plat note #8, a 10-foot planting strip applies to Lot 1. The purpose of the planting strip is to limited vehicular access onto Emerald Street with the addition of a driveway for Lot 2.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.N</b></p> <p><b>Cuts, Fills, And Grading Improvements:</b> Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> <li>e. Location of all street and utility improvements including driveways to building envelopes.</li> <li>f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements.</li> </ol> </li> <li>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</li> <li>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</li> <li>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</li> </ol>

				<p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <p>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</p> <p>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods).</p> <p>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</p> <p>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</p> <p>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</p>
			<i>Findings</i>	This standard does not apply as this application is the subdivision of an existing lot. On-site grading for development on Lot 2 must meet all requirements of Title 17 – Zoning Regulations and Title 15 – Buildings and Construction.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.O	<p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			<i>Findings</i>	The subject property is mostly flat, with existing drainage operating adequately to manage surface water on site. Drainage of stormwater from the right-of-way and proposed improvements have been verified by the City Engineer. Prior to start of construction of right-of-way improvements, construction drawings shall be reviewed and approved by the City Engineer as outlined in condition of approval #1.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p><b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			<i>Findings</i>	All existing utilities are underground for the existing residential dwelling unit and detached garage. As show on Sheet 1 of the preliminary plat, new utilities will be

				installed underground. Utility locations will be reviewed and verified at the time of building permit application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	<b>Off Site Improvements: Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.</b>
			<i>Findings</i>	The proposed subdivision does not create substantial additional traffic, therefore, no improvements are required.

### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Townhouse Preliminary Plat application for the development and use of the project site.
2. The Council has authority to review and recommend approval of the applicant’s Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.
5. The 151 Topaz St Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

### DECISION

**THEREFORE,** the City Council **approves** this Preliminary Plat Application File No. P21-034 this Thursday, November 18, 2021, subject to the following conditions of approval.

### CONDITIONS OF APPROVAL

1. Prior to construction of required improvements, construction plans for proposed improvements to Emerald Street shall be reviewed and approved by the City Engineer.
2. The Final Plat application shall include a plat note restricting construction of driveway curb cuts on the new lot to the turnaround access easement location as shown on the preliminary plat.
3. All fences located within snow storage easements must either be relocated or removed entirely and verified by a member of the City of Ketchum Planning staff, prior to approval of the Final Plat.
4. The Final Plat application shall not include Plat note 3 provided that all fences have been adequately removed or relocated.

5. All right-of-way improvements shall be completed and accepted by the City of Ketchum City Engineer prior to approval of the Final Plat.
6. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

Findings of Fact **adopted** this 18th day of November 2021.

---

Neil Bradshaw, Mayor  
City of Ketchum



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Approve Agreement 22749 with the Ketchum Renewal Agency**

#### Recommendation and Summary

Staff is recommending the Council authorize the Mayor to sign Agreement 22749 and adopt the following motion:

I move to approve Agreement 22749 between the city of Ketchum and the Ketchum Urban Renewal Agency (KURA)

The reasons for the recommendation are as follows:

- The KURA is an independent agency from the city of Ketchum. Since the Agency was established, city staff have provided staffing and support to the Agency.
- There has never been a contract or agreement between the City and KURA for staffing and support.
- The proposed agreement memorializes staff support and costs between the City and KURA.

#### Introduction and History

The KURA was established in 2006 and is a separate agency from the city of Ketchum. Since 2006, city staff have provided staff support for the KURA. The KURA reimburses the City for the cost of staff support. Each year the KURA budgets funds to reimburse the City based on an estimate of staffing costs. There is no contract or agreement between the City and KURA for reimbursement or staffing.

The KURA requested an agreement be prepared to formalize the staffing and reimbursement between the City and KURA. In October, the KURA reviewed and tentatively approved the proposed agreement and requested the agreement be presented to the City Council for approval. Once the City has approved the agreement, the agreement will return to the KURA for formal approval.

#### Analysis

The proposed agreement sets forth the City's obligation for personnel and administrative services for the KURA. The KURA is obligated to reimburse the City for the services provided. The KURA will evaluate the performance of the activity provided on an annual basis and provide the City with the results of the evaluation.

#### Financial Impact

The KURA will reimburse the City for staffing costs associated with KURA support and services.

Attachment: Agreement 22749

## ADMINISTRATION AND SUPPORT SERVICES AGREEMENT 22749

THIS ADMINISTRATION AND SUPPORT SERVICES AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the city of Ketchum (hereinafter referred to as the “City”), a municipal corporation of the state of Idaho, and the Urban Renewal KURA of the city of Ketchum, also known as the Ketchum Urban Renewal KURA, an independent public body, corporate and politic, duly organized and existing by virtue of the laws of the State of Idaho, specifically the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code (the “Law”), and authorized to transact business and exercise the powers granted by the Law and the Local Economic Development Act, as amended, Chapter 29, Title 50, Idaho Code (the “Act”) (hereinafter referred to as the “KURA”) (collectively the City and KURA may be referred to as the “Parties”), effective retroactively to October 1, 2021.

WHEREAS, KURA is authorized to undertake and carry out urban renewal projects to eliminate, remedy, or prevent deteriorated or deteriorating areas through redevelopment, rehabilitation, or conservation, or any combination thereof, within its area of operation and is authorized to carry out such projects jointly with the City;

WHEREAS, the City Council (“City Council”) of the City of Ketchum (the “City”) by adoption of Ordinance No. 992 on November 15, 2006, duly adopted the Ketchum Urban Renewal Plan (the “2006 Plan”) to be administered by the Agency;

WHEREAS, upon the approval of Ordinance No. 1077 adopted by the City Council on November 15, 2010, and deemed effective on November 24, 2010, the Agency began implementation of the amended Ketchum Urban Renewal Plan (the “Amended Plan”);

WHEREAS, the Amended Plan includes the acquisition, construction, and installation of public improvements within the Project Area and necessary costs for engineering, insurance, audit, planning and administration;

WHEREAS, KURA is authorized to conduct proceedings and to borrow monies to be repaid through revenue allocation (tax increment) funds pursuant to the terms and provisions of the Act for the purpose of financing the undertaking of any urban renewal project;

WHEREAS, the Amended Plan contains revenue allocation (tax increment) financing provision;

WHEREAS, the City and KURA hereby find and determine that this Agreement enables them to cooperate to their mutual advantage in a manner that will best accord with the needs and development of the City and KURA and to implement the Amended Plan as well as any future urban renewal plans and project areas;

WHEREAS, the ability for the City and KURA to cooperate and jointly benefit each other is expressly allowed pursuant to Idaho Code Section 50-2015;

WHEREAS, the City has provided and continues to provide certain services to KURA;

WHEREAS, the City and KURA wish to state their respective obligations, expand the services provided by the City to KURA, and revise the amount of consideration paid by KURA to the City accordingly;

NOW, THEREFORE, the City and KURA do hereby agree as follows:

**1. Statement of Purpose**

The purpose of this Agreement is to provide for the definition of rights, obligations, and responsibilities of KURA and the City to provide for the receipt, investment, and disbursement of funds by the City Treasurer on behalf of KURA, clarify the City's obligations to provide administrative, clerical, and secretarial services and support for KURA, and set the amount of consideration KURA shall pay the City for such services.

**2. City's Obligations**

The City agrees to make available certain personnel and administrative services to KURA, including, but not limited to:

- a. Services through the City Clerk; City Treasurer; and the Director of Planning and Building, who, as of the effective date, serves as the Executive Director of KURA;
- b. Any other necessary services from other City departments or staff related to clerical support;
- c. Assistance from other City departments, including, but not limited to, Recreation, Streets and Facilities, and Utilities.

**3. General Job Descriptions**

a. Treasurer

As of the effective date of this Agreement, the City Treasurer serves as the elected KURA Treasurer (the "KURA Treasurer"). The City Treasurer shall receive, invest, and disburse funds subject to legal authorization and budgeting by KURA and formal approval by KURA Board. The City Treasurer shall also be responsible for preparing all required accounting reports, including any required year end financial statements and/or a comprehensive annual financial report, and advising KURA Board of KURA's financial status. Provided however, KURA shall engage, at its sole cost and expense, a qualified accountant/auditor to provide the annual independent financial audit as required by Idaho Code 67-450B.

The City may designate City's Deputy Treasurer to perform these functions, subject to approval by KURA. The City Treasurer (or his or her designee) shall provide the following specific services:

- Maintain an account ledger for all income and expenses and provide a monthly summary report of the same to KURA Board; as well as distribution of invoice/expense information for all Board meetings and monthly between meetings;
- Provide general bookkeeping services in substantial compliance with Generally Accepted Accounting Principles or Governmental Accounting Standard Board (GASB) standards, whichever is applicable;
- Coordinate with any accountant/auditor selected by KURA to perform annual audits;

b. Director of Planning and Building

The Director of Planning and Building, or his or her designee as selected by the City and subject to approval by KURA, agrees to furnish its skill and judgment in the administration of services by a political subdivision, including but not limited to areas related to urban planning and economic development, to carry out the Amended Plan and the Project Area. The extent of those administration services will be as authorized by the KURA Board of Commissioners and/or the KURA Chair. Under the general direction of the Board of Commissioners, and in accordance with KURA policy, applicable laws, and professional standards, the Director of Planning and Building is responsible for the effective administration of all KURA activities, including development, planning, operations, budgeting, staffing, and developing/maintaining KURA's external relationships. **Exhibit A**, attached hereto, contains a general description of the services to be provided by the Director of Planning and Building.

c. Other City Departments

From time to time, KURA may seek input and assistance from other City departments, including, but not limited to, Recreation, Streets and Facilities, and Utilities to provide research, analysis, and information concerning potential KURA projects. In those instances, those departments and their personnel shall be compensated by KURA as set forth in Section 4 of this Agreement.

d. Clerical and Support Services

As of the effective date of this Agreement, the City Clerk serves as the elected Agency Secretary. City, through the City Clerk's office, subject to approval by KURA, shall designate a city employee or employees and shall provide the following services:

- Preparation and distribution of the agendas for all meetings of KURA;
- Attend each KURA meeting and record and transcribe the minutes;
- Assemble and maintain the records of KURA in a safe and organized manner in compliance with the principles or standards referenced above;



- Keep track of and prepare checks or other methods of payment for KURA expenses as directed by the City Treasurer, the Director of Planning and Building or KURA Board;
- Compliance with KURA reporting requirements.

The City may designate City's Deputy City Clerk to perform the above functions subject to the approval by KURA.

e. Miscellaneous Services

City, through the City Clerk's office, subject to approval by KURA, shall designate a city employee or employees and shall provide the following services:

- City shall host and maintain the KURA website;
- At no cost to KURA, the City shall provide meeting facilities that include live broadcasting of KURA meetings, to include audio, video, and projection equipment.

**4. KURA'S Obligations/Compensation to City**

KURA agrees to pay City for services rendered under this Agreement based on the following methodology. Any City personnel providing services to KURA as described in this Agreement shall maintain specific time increments showing the amount of time worked on a KURA project or initiative as well as a description of the services provided. KURA shall compensate such work based on the hourly rate imposed by the City employee, in an amount previously agreed to by the City and KURA through the budgeting process described in Section 8 of this Agreement. Such hourly rate shall consider the salary and other benefit costs related to the employee's position.

**5. Method of Payment/Monthly Invoices**

The City shall maintain time and expense records and provide them to KURA monthly, along with monthly invoices in a format acceptable to KURA for services performed to the date of the invoice. Each invoice shall specify charges as they relate to the tasks set forth in this Agreement. Each invoice shall also specify current billing and previous payments, with a total of costs incurred and payments made to date. Each invoice shall identify the number of hours incurred by each City employee identified in this Agreement along with that employee's hourly rate. City shall provide KURA the applicable hourly rate for the work provided, which hourly rate shall be subject to review and approved by KURA.

If the services subject to a specific invoice do not meet the requirements of this Agreement as KURA may reasonably determine, KURA shall notify City in writing and provide specific deficiencies in the services or work product that do not meet the requirements. City shall have seven (7) working days to correct or modify the services or work product to comply with the requirements of the Agreement as set forth in KURA's written notice. If KURA again reasonably determines the services or work product fails to meet the requirements, KURA may

withhold payment until deficiencies have been corrected to KURA's reasonable satisfaction or may terminate this Agreement for cause as set forth in Section 14 of this Agreement.

## **6. Additional Reimbursements**

KURA shall reimburse City for costs associated with engineering or other technical services associated with KURA funded projects. KURA shall provide reimbursement for the costs of systems and technology to support administrative functions. Such costs shall be identified and approved by the KURA Board as part of the annual budgeting process.

## **7. Evaluations**

No later than June 1 of each calendar year, KURA shall evaluate the performance of the activity provided by any City employee for services described in this Agreement. KURA shall provide the results of such evaluations to the City for its review and comment. One of the purposes of such evaluations is to provide KURA the opportunity to request City assign other employees to provide the services set forth in this Agreement. Should the City and Agency not reach agreement on the assignment of alternative employees, either party may invoke termination of this Agreement for Convenience as described in Section 17.b. of this Agreement. Alternatively, should the City and Agency not reach agreement on the assignment of alternative employees, either party may elect to not renew this Agreement as described in Section 22 of this Agreement.

## **8. Annual Budgeting Proposal**

No later than July 1 of each calendar year, City shall provide KURA with a summary of the hours worked by City employees on KURA assignments, a breakdown of hourly rates, and the total amount compensated through the date of the summary. No later than July 1 of each calendar year, City shall provide KURA with City's proposal for the type of services, hourly rates for such service, hourly rates of City employees providing services to KURA, and an estimated amount of compensation for the following fiscal year to assist KURA in preparing its required budget for the following fiscal year. Should City and KURA not reach agreement on the services provided, the City employees assigned to KURA, or the amount of compensation for the subsequent fiscal year, then either party may provide notice of non-renewal as described in Section 22 of this Agreement.

## **9. Insurance**

The City shall purchase and maintain for the benefit of the City and KURA insurance for protection from claims under workers' or workmens' compensation acts arising from work performed under this Agreement; claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any of the City's employees while working on activities under this Agreement; claims for damages because of injury to or destruction or loss of use of tangible property as a result of work pursuant to this Agreement; and claims arising out of the performance of this Agreement and caused by negligent acts for which the City is legally liable. The terms and limits of liability shall be determined solely by the City (but no less than the limits required under the Idaho Tort Claims Act), and nothing herein shall be construed as

any waiver of any claim or defense by the City or KURA premised upon any claim of sovereign immunity or arising from the Idaho Tort Claims Act. Provided, however, KURA shall obtain its own insurance of similar benefit and value for KURA activities.

## **10. Representations and Warranties**

In consideration of this Agreement City and KURA make the following representations and warranties:

a. KURA is a public body corporate and politic of the State of Idaho, duly organized and validly existing, and in good standing under the laws of the State of Idaho with the power to own its assets and to transact business in Idaho.

b. KURA has the authority and power to execute and deliver any document required hereunder and to perform any condition or obligation imposed under the terms of such documents.

c. The execution, delivery, and performance of this Agreement and each document incident hereto will not violate any provision of any applicable law, regulation, order, judgment, decree, article of incorporation, bylaw, indenture, contract, agreement, or other undertaking to which KURA is a party or which purports to be binding on KURA or its assets and will not result in the creation of imposition of a lien on any of its assets.

d. There is no action, suit, investigation, or proceeding pending or, to the knowledge of KURA, threatened against or affecting KURA or any of its assets which, if adversely determined, would have a material adverse affect on the financial condition of KURA or the operation of its business or which would otherwise affect this Agreement or KURA's obligations hereunder.

e. City is a municipal corporation of the state of Idaho, duly organized and validly existing, and in good standing under the laws of the state of Idaho with the power to own its assets and to transact business in Idaho.

f. City has the authority and power to execute and deliver any document required hereunder and to perform any condition or obligation imposed under the terms of such documents.

g. The execution, delivery, and performance of this Agreement and each document incident hereto will not violate any provision of any applicable law, regulation, order, judgment, decree, article of incorporation, bylaw, indenture, contract, agreement, or other undertaking to which KURA is a party or which purports to be binding on City.

h. There is no action, suit, investigation, or proceeding pending or, to the knowledge of City, threatened against or affecting City or any of its assets which, if adversely determined, would have a material adverse affect on the financial condition of

City or the operation of its business or which would otherwise affect this Agreement or City's obligations hereunder.

## **11. Miscellaneous Provisions**

Each Party represents and warrants that each person executing this Agreement on behalf of such Party is, at the time of such execution, duly authorized to do so by such Party's governing body, and is fully vested with the authority to bind such party in all respects.

If any provision of this Agreement is held invalid, illegal, or unenforceable, the remainder shall be construed to conform to the intent of the parties, and shall survive the severed provisions.

The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions, or agreements contained herein.

The Parties shall in all instances cooperate and act in good faith in compliance with the terms, covenants, and conditions of this Agreement and each shall deal fairly with the other.

Each Party shall cooperate fully with the other and execute such further instruments, documents and agreements and give such further written assurances, as may be reasonably requested by the other to better evidence and reflect the transactions described herein and contemplated hereby, and to carry into effect the intents and purposes of this Agreement.

In any suit, action, or appeal therefrom to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees.

This Agreement shall not be modified or otherwise amended except in writing signed by all of the Parties.

If the date for delivery of a notice or performance of some other obligation of a Party falls on a Saturday, Sunday, or legal holiday in the State of Idaho, then the date for such notice or performance shall be postponed until the next business day

This Agreement shall be governed by the laws of the state of Idaho.

## **12. Successors and Assigns**

No Party may assign or delegate its obligations under this Agreement without the consent of the other Party hereto, which consent may be withheld in the discretion of that Party. Except as otherwise set forth in this Agreement, the terms, covenants, conditions, and agreements contained herein shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the Parties.

### **13. Number and Gender**

In constructing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

### **14. No Third-Party Beneficiary**

This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a Party hereto unless otherwise expressly provided herein.

### **15. Counterparts / Facsimile**

This Agreement may be executed in counterparts, and each counterpart shall then be deemed for all purposes to be an original, executed agreement with respect to the Parties whose signatures appear thereon. Facsimile transmission of any signed original of this Agreement, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original and shall be binding upon the parties.

### **16. Merger Clause**

This Agreement, along with any and all Exhibits, attached hereto and incorporated herein by reference, contains the entire Agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

### **17. Termination of Agreement**

a. **For Cause.** If, through any cause, the City shall fail to fulfill its obligations under this Agreement, or if the City shall violate any of the covenants, agreements, or stipulations of this Agreement, KURA shall thereupon have the right to terminate this Agreement by giving written notice to the City and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. If this Agreement is terminated for cause, City shall be paid an amount for the actual services performed in accordance with this Agreement through the cancellation date.

Notwithstanding the above, the City shall not be relieved of liability to KURA by virtue of any breach of this Agreement by the City, and KURA may withhold any payments to the City for the purpose of set-off until such time as the exact amount of damages due KURA from the City is determined. City shall also provide KURA all work products generated prior to date of termination. All work products generated, whether complete or not, are the property of KURA.

b. **For Convenience.** KURA or City may terminate this Agreement at any time, for any reason, by giving at least thirty (30) days' notice in writing to the other party. If this Agreement is terminated by KURA as provided herein, City shall be paid an

amount for the actual services performed in accordance with this Agreement through the cancellation date.

**18. Notices**

Any and all notices required to be given by either of the Parties hereto, unless otherwise stated in this Agreement shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addresses as follows:

To KURA: Suzanne Frick, Executive Director  
Ketchum Urban Renewal Agency  
P.O. Box 2315  
Ketchum, ID 83340  
[sfrick@ketchumidaho.org](mailto:sfrick@ketchumidaho.org)

To City: \_\_\_\_\_  
City of Ketchum  
P.O. Box 2315  
Ketchum, ID 83340  
[Email address]

**19. Discrimination Prohibited.**

In performing the services required herein, City shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or handicap. Violation of this section shall constitute a material breach of this Agreement and be deemed grounds for cancellation, termination, or suspension of the Agreement by KURA, in whole or in part, and may result in ineligibility for further work for KURA.

**20. Indemnification**

City agrees to indemnify, defend and hold harmless KURA, and its officers, agents and employees, from and against all claims, losses, actions, or judgments for damages or injury to persons or property to the extent caused by the City's negligence or intentional acts or omissions, including but not limited to any claim for libel, slander, piracy, plagiarism, invasion of privacy, false advertising, discrimination, or infringement of copyright, during the performance of this Agreement by City or City's agents, employees, or representatives. In case any action or proceeding is brought against KURA or its officers, agents, or employees by reason of or arising out of connection with City's negligence or intentionally wrongful acts or omissions during the performance of this Agreement, City, upon written notice from KURA, shall at City's expense, resist or defend such action or proceeding.

**21. Disputes**

In the event that a dispute arises between KURA and the City regarding application or interpretation of any provision of this Agreement, the aggrieved Party shall promptly notify the other Party to this Agreement of the dispute within ten (10) days after such dispute arises. If the

Parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the Parties may first endeavor to settle the dispute in an amicable manner by mediation. If the Parties elect to mediate their dispute, the Parties will select a mediator by mutual agreement and agree to each pay half of the mediator's costs and fees. The mediation will take place in Jerome, Idaho unless otherwise agreed by the Parties in writing. Should the Parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each Party shall have the right to pursue any rights or remedies it may have at law or in equity. If the Parties do not mutually agree to mediate the dispute, either Party may pursue any rights or remedies it may have at law.

**22. Term of Agreement and Renewal**

This Agreement shall be effective retroactively to October 1, 2021, and shall continue for an initial period through September 30, 2022. The Agreement shall automatically renew for additional one-year terms at the expiration of the then existing term unless either City or KURA provides notice of non-renewal within sixty (60) days of the expiration of the then existing term.

IN WITNESS WHEREOF, the parties hereto through their respective governing boards have executed this Agreement on the date first cited above.

CITY OF KETCHUM

By \_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

URBAN RENEWAL AGENCY OF THE CITY OF  
KETCHUM

By \_\_\_\_\_  
Ed Johnson, Chairman

ATTEST:

\_\_\_\_\_  
Secretary

## EXHIBIT A

### SCOPE OF SERVICES

City shall provide day to day administrative and operational support to the KURA to include, but not limited to, the following services:

- Assist with the preparation and administration of KURA contracts and agreements
- Provide staff support for projects requested by the KURA Board
- Provide assistance to members of the public inquiring about KURA projects or funding
- Prepare letters, memos, or other correspondence on behalf of the KURA Board.
- Manage and administer KURA Owner Participation Agreements
- Respond to KURA public records requests
- Manage and maintain all KURA records and files
- Coordinate KURA activities and projects with City staff and KURA consultants

4820-2337-4821, v. 3





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve the Bavarian Village Townhomes Final Plat Application**

#### Recommendation and Summary

Staff recommends the Ketchum City Council approve the Townhouse Subdivision Final Plat application, submitted by Benchmark Associates on behalf of property owner Timothy J. Linehan, to subdivide Lot 2 of Bavarian Village Subdivision into 2 townhouse sublots for the Bavarian Village Townhomes development located at 112 Rember Street within the City's General Residential High Density (GR-H) Zoning District.

Recommended Motion: "I move to approve the Bavarian Village Townhomes Final Plat application subject to conditions of approval 1-9."

The reasons for the recommendation are as follows:

- On April 20<sup>th</sup>, 2020, the applicant applied for a townhouse subdivision to create two townhouse sublots on Lot 2 of the Bavarian Village Subdivision. The Planning and Zoning Commission reviewed and recommended approval of Townhouse Subdivision Preliminary Plat P20-030 to the City Council on June 8<sup>th</sup>, 2020. On July 20<sup>th</sup>, 2020, the City Council approved the townhouse subdivision preliminary plat. The final plat map substantially conforms to the approved preliminary plat map.
- All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18th, 2021.
- The request to subdivide meets all applicable standards for Townhouse Final Plats contained in Ketchum Municipal Code's Subdivision (Title 16) regulations.

#### Analysis

The Bavarian Village Townhomes is a two-unit, multi-family residential development consisting of detached townhomes each with its own detached accessory building. The project received Administrative Design Review (Application File No. P17-065) on July 14<sup>th</sup>, 2017. Amendments (Application File Nos. P18-042 and P19-020) to the Administrative Design Review Permit were approved by the Administrator on May 4<sup>th</sup>, 2018 and May 16<sup>th</sup>, 2019.

On September 3<sup>rd</sup>, 2019, the applicant applied for a building permit to construct the townhome development. Building Permit B19-091 was issued on October 30<sup>th</sup>, 2019 and construction commenced on the project.

On April 20<sup>th</sup>, 2020, the applicant submitted an application for a townhouse subdivision to create two townhouse sublots on Lot 2 of the Bavarian Village Subdivision. The Planning and Zoning Commission reviewed and recommended approval of Townhouse Subdivision Preliminary Plat P20-030 to the City Council on June 8<sup>th</sup>, 2020. On July 20<sup>th</sup>, 2020, the City Council approved the townhouse subdivision preliminary plat.

All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18<sup>th</sup>, 2021. The project's utilities, driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 22735 for the placement of the driveway pavers and snowmelt system was approved by City Council on October 18<sup>th</sup>, 2021.

#### Financial Impact

Recording the Final Plat signals to the Blaine County Assessor's Office that the townhome units have been subdivided, resulting in 2 separate legal descriptions and tax assessments, independently sellable. There is no financial requirement from the city for this action.

#### Attachments

Draft Findings of Fact, Conclusions of Law, and Decision  
Bavarian Village Townhomes Final Plat Application



City of Ketchum  
Planning & Building

IN RE: )  
 )  
 Bavarian Village Townhomes ) KETCHUM CITY COUNCIL  
 Townhouse Subdivision Final Plat ) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
 Date: November 19<sup>th</sup>, 2021 ) DECISION  
 )  
 File Number: 21-093 )

**Findings Regarding Application Filed**

**PROJECT:** Bavarian Village Townhomes Final Plat

**FILE NUMBER:** P21-093

**ASSOCIATED PERMITS:** Building Permit B19-091, Administrative Design Review P17-065, Administrative Design Review Amendments P18-042 and P19-020, Townhouse Subdivision Preliminary Plat P20-030

**OWNER:** Timothy J. Linehan

**REPRESENTATIVE:** Garth McClure, Benchmark Associates

**REQUEST:** Townhouse Subdivision Final Plat for the Bavarian Village Townhomes

**LOCATION:** 112 Rember Street (Bavarian Village Subdivision: Lot 2)

**NOTICE:** No public hearing is required as the final plat substantially conforms to the preliminary plat.

**ZONING:** General Residential High Density (GR-H)

**OVERLAY:** None

**Findings Regarding Project Background**

The Bavarian Village Townhomes is a two-unit, multi-family residential development consisting of detached townhomes each with its own detached accessory building. The project received Administrative Design Review (Application File No. P17-065) on July 14<sup>th</sup>, 2017 for a three-unit, multi-family dwelling development comprised of one single-family dwelling and an attached duplex. Prior to the City’s adoption of Ordinance No. 1190 on December 3<sup>rd</sup>, 2018, the Planning and Zoning Administrator was authorized to approve Design Review permits for multi-family residential projects of four units or less not located in the Community Core Zoning District. On March 30<sup>th</sup>, 2018, the

applicant submitted minor changes to the approved project. The changes included modifications to the orientation of the single-family dwelling and driveway, a 1-foot increase to the proposed building height, and exterior material changes. No changes were proposed to the total floor area or building coverage. The Administrative Design Review Amendment (Application File No. P18-042) was approved and qualified the project for the first 12-month extension for the unexpired Design Review approval pursuant to Ketchum Municipal Code §17.96.090.B2. On March 1<sup>st</sup>, 2019, the applicant submitted an application to revise the design of the multi-family development project (Administrative Design Review Amendment Application File No. P19-020). The request was to decrease the density of the project. The applicant proposed eliminating the single-family unit and attached duplex and developing two detached townhome units each with an associated accessory building. The accessory buildings included storage space and a second-floor bedroom suite. The Planning and Zoning Administrator made the determination to administratively approve the changes pursuant to Ketchum Municipal Code §17.96.030.A1a, which authorizes the Administrator to approve minor modifications to projects that have received Design Review approval. The following table summarizes the project changes:

**Table 1. Bavarian Village Project History**

<b>Dimensional Standard/Use/Density</b>	<b>ADR17-065</b>	<b>ADR P18-042</b>	<b>ADR P19-020</b>
FAR	0.69	0.69	0.64
Gross Floor Area (gross square feet)	6,289	6,289	5,806
Maximum Height	36’-6’’	37’-10’’	26’-10’’
Multi-Family Dwelling Units	3	3	2

On September 3<sup>rd</sup>, 2019, the applicant applied for a building permit to construct the townhome development. Building Permit B19-091 was issued on October 30<sup>th</sup>, 2019 and construction commenced on the project.

On April 20<sup>th</sup>, 2020, the applicant submitted an application for a townhouse subdivision to create two townhouse sublots on Lot 2 of the Bavarian Village Subdivision. The Planning and Zoning Commission reviewed and recommended approval of Townhouse Subdivision Preliminary Plat P20-030 to the City Council on June 8, 2020. On July 20<sup>th</sup>, 2020, the City Council approved the townhouse subdivision preliminary plat.

**FINDING REGARDING COMPLETION OF IMPROVEMENTS**

All project plans for the townhome development were reviewed and approved by City Departments through the project’s Design Review, Townhouse Subdivision, and Building Permit applications. All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18<sup>th</sup>, 2021. The project’s utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 22735 for the placement of the driveway pavers and snowmelt system was approved by City Council on October 18th, 2021.

### Findings Regarding Townhouse Subdivision Procedure (KMC §16.04.080)

All land subdivisions in the City of Ketchum are subject to the standards contained in Ketchum, Municipal Code, Title 16, Subdivision. Many standards are related to the design and construction of multiple new lots that will form new blocks and infrastructure, such as streets that will be dedicated to and maintained by the City. The standards for certain improvements (KMC §16.04.040) are not applicable to this project as this application proposes to subdivide an existing lot within a residential subdivision into 2 townhouse sublots. As conditioned, the request to subdivide meets all applicable standards for Townhouse Final Plats contained in Ketchum Municipal Code’s Subdivision (Title 16) and Zoning (Title 17) regulations. The Townhouse Subdivision does not change the proposed residential use or alter the proposed development as reviewed and approved through Administrative Design Review P17-065, Administrative Design Review Amendments P18-042 and P19-020, Townhouse Subdivision Preliminary Plat P20-030, Building Permit B19-091, and Right-of-Way Encroachment Agreement 22735.

**Table 2: Findings Regarding Townhouse Final Plat Requirements**

Townhouses Requirements					
Compliant			Standards and City Council Findings		
Yes	No	N/A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.D	<p>D. Final Plat Procedure:</p> <p>1. The final plat procedure contained in subsection 16.04.030G of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the townhouse has received either:</p> <ul style="list-style-type: none"> <li>a. A certificate of occupancy issued by the city of Ketchum for all structures in the townhouse development and completion of all design review elements as approved by the planning and zoning administrator; or</li> <li>b. Signed council approval of a phased development project consistent with §16.04.110 herein.</li> </ul> <p>2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code.</p>	
			<i>City Council Findings</i>	<p><i>The Final Plat may be signed by the City Clerk in accordance with KMC §16.04.110 as all improvements have been completed to the satisfaction of all City Departments. The townhouse development was issued a Certificate of Occupancy on October 18th, 2021.</i></p>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E	<p>E. Required Findings: In addition to all Townhouse Developments complying with the applicable provisions of Title 17 and this Subdivision Chapter (§16.04), the Administrator shall find that</p> <ul style="list-style-type: none"> <li>1. All Townhouse Developments, including each individual subplot, shall not exceed the maximum building coverage requirements of the zoning district.</li> </ul>	

				<p>2. Garage: All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots; provided, that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents, and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.</p>
			<i>City Council Findings</i>	<i>The townhouse development meets the dimensional standards and requirements of the General Residential High Density (GR-H) Zoning District. No detached garages are proposed with this townhome development. Each townhome has its own accessory building. The accessory buildings will be platted on the same sublots as the townhomes.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.F	<p><b>General Applicability:</b> All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by townhouse subdivisions.</p>
			<i>City Council Findings</i>	<i>All other provisions of this chapter and all applicable ordinances, rules, and regulations of the City and other governmental entities having jurisdiction shall be complied with by the townhouse subdivision.</i>

Table 3: Findings Regarding Final Plat Requirements

Final Plat Requirements				
Compliant			Standards and City Council Findings	
YES	NO	N / A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	<p>Contents Of Final Plat: The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:</p>
			<i>City Council Findings</i>	<i>The Final Plat mylar shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	Location and description of monuments.
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	Names and locations of all adjoining subdivisions.
			<i>City Council Findings</i>	<i>This standard has been met. The neighboring lots within Bavarian Village Subdivision as well as the Smokey Lane Condominiums are indicated on the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	Name and right of way width of each street and other public rights of way.
			<i>City Council Findings</i>	<i>This standard has been met. The Rember Streets and Bird Drive rights-of-way are indicated on the plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	Location, dimension and purpose of all easements, public or private.
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>City Council Findings</i>	<i>This Townhouse Subdivision will subdivide existing Lot 2 within Bavarian Village Subdivision into 2 townhouse sublots. No new blocks are created with the townhouse subdivision.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>City Council Findings</i>	<i>N/A as no dedications have been required or proposed for this townhouse subdivision.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>City Council Findings</i>	<i>This standard has been met. The name of the proposed subdivision is Bavarian Village Townhomes.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision
			<i>City Council Findings</i>	<i>N/A. No public streets are existing or proposed within the townhouse subdivision.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.12	A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.
			<i>City Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The applicant shall include a provision in the owner's certificate referencing the county recorder's instrument number where the article of incorporation of the homeowners' association governing the subdivision are recorded. This reference is included in Plat Note No. 4.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
			<i>City Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include the surveyor's certification.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat.
			<i>City Council Findings</i>	<i>This standard has been met. A title report and warranty deed were submitted with the Final Plat application and both are current.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
			<i>City Council Findings</i>	<i>As conditioned (#7), this standard will be met prior to recordation of the Final Plat. The signature block page shall include a certificate of ownership and associated acknowledgement from all owners and holders of security interest with regard to the subject property, which shall be signed following Ketchum City Council review and approval of the application and prior to recordation of the Final Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.
			<i>City Council Findings</i>	<i>As conditioned (#7), this standard will be met prior to recordation of the Final Plat. The signature block page shall include the certification and signature of the surveyor verifying that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.



			<i>City Council Findings</i>	<i>As conditioned (#7), this standard will be met prior to recordation of the Final Plat. The signature block page shall include the City Engineer's approval and verification that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	<b>Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.</b>
			<i>City Council Findings</i>	<i>As conditioned (#7), this standard will be met prior to recordation of the Final Plat. The signature block page shall include the certification and signature of the City Clerk verifying the subdivision has been approved by City Council.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.19	<b>Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.</b>
			<i>City Council Findings</i>	<i>N/A as no restrictions were imposed by the Ketchum City Council during review of the Preliminary Plat application.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.L	<b>Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.</b>
			<i>City Council Findings</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	<b>Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city.</b>
			<i>City Council Findings</i>	<i>All project plans for the townhome development were reviewed and approved by City Departments through the project's Design Review, Townhouse Subdivision, and Building Permit applications. All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18<sup>th</sup>, 2021. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 22735 for the placement of the driveway pavers and snowmelt system was approved by City Council on October 18th, 2021.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.B	<b>Improvement Plans: Prior to approval of final plat by the Council, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required</b>

				in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			<i>City Council Findings</i>	<i>City Departments, including Planning, Building, Fire, Streets, City Engineer, and Utilities, reviewed approved all required improvements through Administrative Design Review P17-065, Administrative Design Review Amendments P18-042 and P19-020, Townhouse Subdivision Preliminary Plat P20-030, Building Permit B19-091, and Right-of-Way Encroachment Agreement 22735.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	Performance Bond: Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather, factors beyond the control of the subdivider, or other conditions as determined acceptable at the sole discretion of the city, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be two years or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.
			<i>City Council Findings</i>	<i>No performance bond is needed as all improvements are complete. All project plans for the townhome development were reviewed and approved by City Departments through the project's Design Review, Townhouse Subdivision, and Building Permit applications. All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18<sup>th</sup>, 2021. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 22735 for the placement of the driveway pavers and snowmelt system was approved by City Council on October 18th, 2021.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.D	As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed

				with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.
			<i>City Council Findings</i>	<i>All project plans for the townhome development were reviewed and approved by City Departments through the project's Design Review, Townhouse Subdivision, and Building Permit applications. All improvements have been inspected by City Departments and completed to their satisfaction. The townhouse development was issued a Certificate of Occupancy on October 18th, 2021. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 22735 for the placement of the driveway pavers and snowmelt system was approved by City Council on October 18th, 2021.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.E	<p><b>Monumentation:</b> Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
			<i>City Council Findings</i>	<i>The applicant shall meet the required monumentation standards prior to recordation of the Final Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p><b>Lot Requirements:</b></p> <ol style="list-style-type: none"> <li>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</li> <li>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner</li> </ol>

			<p>designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</p> <ul style="list-style-type: none"> <li>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</li> <li>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</li> </ul> <p>3. Corner lots outside of the original Ketchum Townsite shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat. Minimum lot sizes in all cases shall be reversed frontage lot(s).</p>
			<p><i>City Council Findings</i></p> <p><i>Standards 4, 5, and 6 have been met. Standards 2 and 3 are not applicable. Standard 1 has been met. Existing Lot 2 of Bavarian Village Subdivision has a lot width of 68 feet, which is nonconforming to the 80-foot average lot width required in the GR-H Zone. The townhouse subplot subdivision does not increase the degree of nonconformity. The size, shape, and orientation meet the standards required in the GR-H Zone.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.G</b></p> <p><b>G. Block Requirements:</b> The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ul style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> </ul>

				<p>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</p> <p>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</p> <p>4. Except in the original Ketchum Townsite, corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</p>
			<i>City Council Findings</i>	<i>This Townhouse Subdivision application does not create a new block. This requirement is not applicable.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.H	<p><b>Street Improvement Requirements:</b></p> <p>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</p> <p>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</p> <p>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</p> <p>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</p> <p>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</p> <p>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</p> <p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a</p>

			<p>temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p> <p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the County Assessor's office before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting shall be required consistent with adopted city standards and where designated shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the Council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section and chapter 12.04 of this code;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the Administrator and</p>
--	--	--	--

				<p>shall be consistent with the type and design of existing street signs elsewhere in the City;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters shall be required consistent with adopted city standards and where designated shall be a required improvement installed by the subdivider;</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights-of-way unless approved by the City Council; and</p> <p>24. No new public or private streets or flag lots associated with a proposed subdivision (land, planned unit development, townhouse, condominium) are permitted to be developed on parcels within the Avalanche Zone.</p>
			<i>City Council Findings</i>	<i>This Townhouse Subdivision does not create new street, public road, or bridge. The townhomes are accessed from Rember Street. The subdivision is not located within the Avalanche Zone. These standards are not applicable.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be permitted only within the original Ketchum Townsite and only after due consideration of the interests of the owners of property adjacent to the dead-end alley including, but not limited to, the provision of fire protection, snow removal and trash collection services to such properties. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			<i>City Council Findings</i>	<i>This proposal does not create a new alley. This standard is not applicable as the proposed townhome units are located within a residential neighborhood and alleys are not required to be provided.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right-of-way boundaries of all private streets.</p>

			<p>A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the City Engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the Council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the Council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the City.</p>
			<p><i>City Council Findings</i></p> <p><i>All required and existing easements have been provided and shown on the plat map.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16.04.040.K Sanitary Sewage Disposal Improvements: Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by</p>



				<p>the City Engineer, Council and Idaho Health Department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho Department of Health and the Council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the Council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>City Council Findings</i>	<i>The development is connected to the municipal sewer system. The development's sewer services have been completed to the satisfaction of City Departments.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.L	<p><b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the City under the supervision of the Ketchum Fire Department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the Municipal water system and shall meet the standards of the following agencies: Idaho Department of Public Health, Idaho Survey and Rating Bureau, District Sanitarian, Idaho State Public Utilities Commission, Idaho Department of Reclamation, and all requirements of the City.</p>
			<i>City Council Findings</i>	<i>The townhome unit is connected to the municipal water system. The development is connected to the municipal water system. The development's water services have been completed to the satisfaction of City Departments.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	<p><b>Planting Strip Improvements:</b> Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.</p>
			<i>City Council Findings</i>	<i>This standard is not applicable as the sublots are located within an existing residential neighborhood and the subject property does not adjoin incompatible uses or features.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.N	<p><b>Cuts, Fills, And Grading Improvements:</b> Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil</p>

				<p>conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or Council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> <li>e. Location of all street and utility improvements including driveways to building envelopes.</li> <li>f. Any other information which may reasonably be required by the Administrator, commission or Council to adequately review the affect of the proposed improvements.</li> </ol> </li> <li>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</li> <li>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</li> <li>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</li> <li>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply: <ol style="list-style-type: none"> <li>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</li> <li>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American Standard Testing Methods).</li> <li>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</li> </ol> </li> </ol>
--	--	--	--	---

				<p>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</p> <p>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</p>
			<i>City Council Findings</i>	<i>The project's grading improvements were reviewed and approved by City Departments through Design Review Application File No. P19-140, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.O	<p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the City on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			<i>City Council Findings</i>	<i>The project's drainage improvements were reviewed and approved by City Departments through Administrative Design Review P17-065, Administrative Design Review Amendments P18-042 and P19-020, and Building Permit B19-091.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p><b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			<i>City Council Findings</i>	<i>All utilities required to serve the townhome development, including natural gas, telephone, cable, and electricity have been installed.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	Off Site Improvements: Where the off site impact of a proposed subdivision is found by the commission or Council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.
			<i>City Council Findings</i>	<i>No off-site improvements are required with this townhouse subdivision.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.R	Avalanche And Mountain Overlay: All improvements and plats (land, planned unit development, townhouse, condominium) created pursuant to this chapter shall comply with City of Ketchum Avalanche Zone District and Mountain Overlay Zoning District requirements as set forth in Title 17 of this Code.
			<i>City Council Findings</i>	<i>N/A. The property is not located within the Avalanche Zone or Mountain Overlay.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.S	Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<i>City Council Findings</i>	<i>N/A. No existing natural features that would have enhanced the attractiveness of the townhome subdivision were present on Lot 2. The project's new landscaping will beautify the townhome development.</i>

## CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the Ordinances and regulations, which Ordinances are codified in the Ketchum City Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the Applicant’s Townhouse Subdivision Final Plat application for the development and use of the project site.
2. The Council has authority to hear the applicant’s Townhouse Subdivision application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The Townhouse Subdivision Final Plat application is governed under Sections 16.04.010, 16.04.020, 16.04.030, 16.04.080, and 16.04.110 of Ketchum Municipal Code Chapter 16.04.
3. The proposed Townhouse Subdivision for the Bavarian Village Townhomes developments meets the standards for Townhouse Final Plats under Title 16 of Ketchum Municipal Code subject to conditions of approval.

## DECISION

**THEREFORE**, the Ketchum City Council **approves** this Townhouse Subdivision Final Plat application this Thursday, November 18<sup>th</sup>, 2021 subject to the following conditions:

## CONDITIONS OF APPROVAL

1. The Covenants, Conditions, and Restrictions (CC&R’s) shall be simultaneously recorded with the Final Plat, and the City will not now, nor in the future, determine the validity of the CC&R’s.
3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map.
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder’s office concurrent with the recording of the Plat containing the following minimum data:
  - a. Line work delineating all parcels and roadways on a CAD layer/level designated as “parcel”;
  - b. Line work delineating all roadway centerlines on a CAD layer/level designated as “road”;
  - and,
  - c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as “control”;
  - and,
5. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a “.dwg”, “.dgn” or “.shp” format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.

6. The applicant shall provide a copy of the recorded Final Plat and the associated condominium owners' documents to the Planning and Building Department for the official file on the application.
7. The Final Plat mylar shall contain all items required under Title 50, Chapter 13, Idaho Code as well as all items required pursuant to KMC §16.04.030J including certificates and signatures.
8. The project shall comply with all governing ordinances, requirements, and regulations of the Fire Department (2012 International Fire Code and local Fire Protection Ordinance No.1125), Building Department (2012 International Building Code, the 2012 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.
9. The Bavarian Village Townhomes development, including the final plat, is subject to Administrative Design Review P17-065, Administrative Design Review Amendments P18-042 and P19-020, Townhouse Subdivision Preliminary Plat P20-030, Building Permit B19-091, and Right-of-Way Encroachment Agreement 22735.

Findings of Fact **adopted** this 18<sup>th</sup> day of November 2021

---

Neil Bradshaw, Mayor

---

Tara Fenwick, City Clerk



City of Ketchum  
Planning & Building

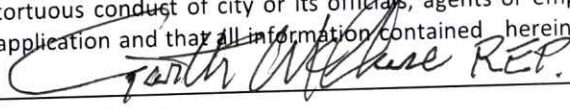
OFFICIAL USE ONLY
Application Number:
Date Received: 10/20/21
By: S Barkula
Fee Paid:
Approved Date:
By:

### Subdivision Application

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 480 East Ave. N., Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION	
Name of Proposed Subdivision: Bavarian Village Townhomes	
Owner of Record: Timothy J. Linehan	
Address of Owner: 9038 15th Ave, Seattle WA 98117	
Representative of Owner: Garth McClure, Benchmark Associates	
Legal Description: Lot 2, Bavarian Village Subdivision	
Street Address: 112 Rember Street	
SUBDIVISION INFORMATION	
Number of Lots/Parcels: 2	
Total Land Area: Sublot 1: 4539 SF Sublot 2: 4539 SF	
Current Zoning District: GR-H	
Proposed Zoning District: GR-H	
Overlay District: N/A	
TYPE OF SUBDIVISION	
Condominium <input type="checkbox"/>	Land <input type="checkbox"/>
PUD <input type="checkbox"/>	Townhouse <input checked="" type="checkbox"/>
Adjacent land in same ownership in acres or square feet:	
Easements to be dedicated on the final plat:	
Existing 5' utility & drainage esmt. per CC&R's; 7' x 8' electrical esmt	
Briefly describe the improvements to be installed prior to final plat approval:	
2 townhouse units, paved driveways, utilities, drywells	
ADDITIONAL INFORMATION	
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance	
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations	
One (1) copy of current title report and owner's recorded deed to the subject property	
One (1) copy of the preliminary plat	
All files should be submitted in an electronic format.	

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortuous conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

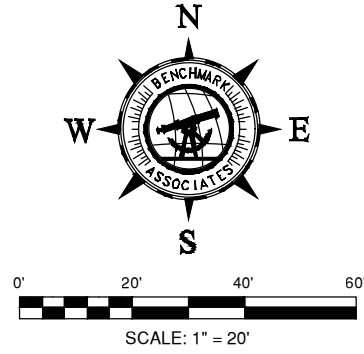
 REP. 10.20.21 ✓  
 Applicant Signature Date

# BAVARIAN VILLAGE TOWNHOMES

LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

A TOWNHOUSE SUBDIVISION OF LOT 2, BAVARIAN VILLAGE SUBDIVISION.

## SEPTEMBER 2021



### LEGEND:

- PROPERTY LINE
- 5' UTILITY AND DRAINAGE EASEMENT (PER CC&R'S)
- BUILDING FOOTPRINT
- PUBLIC MONUMENT TIE
- FOUND 1/2" REBAR
- FOUND 5/8" REBAR

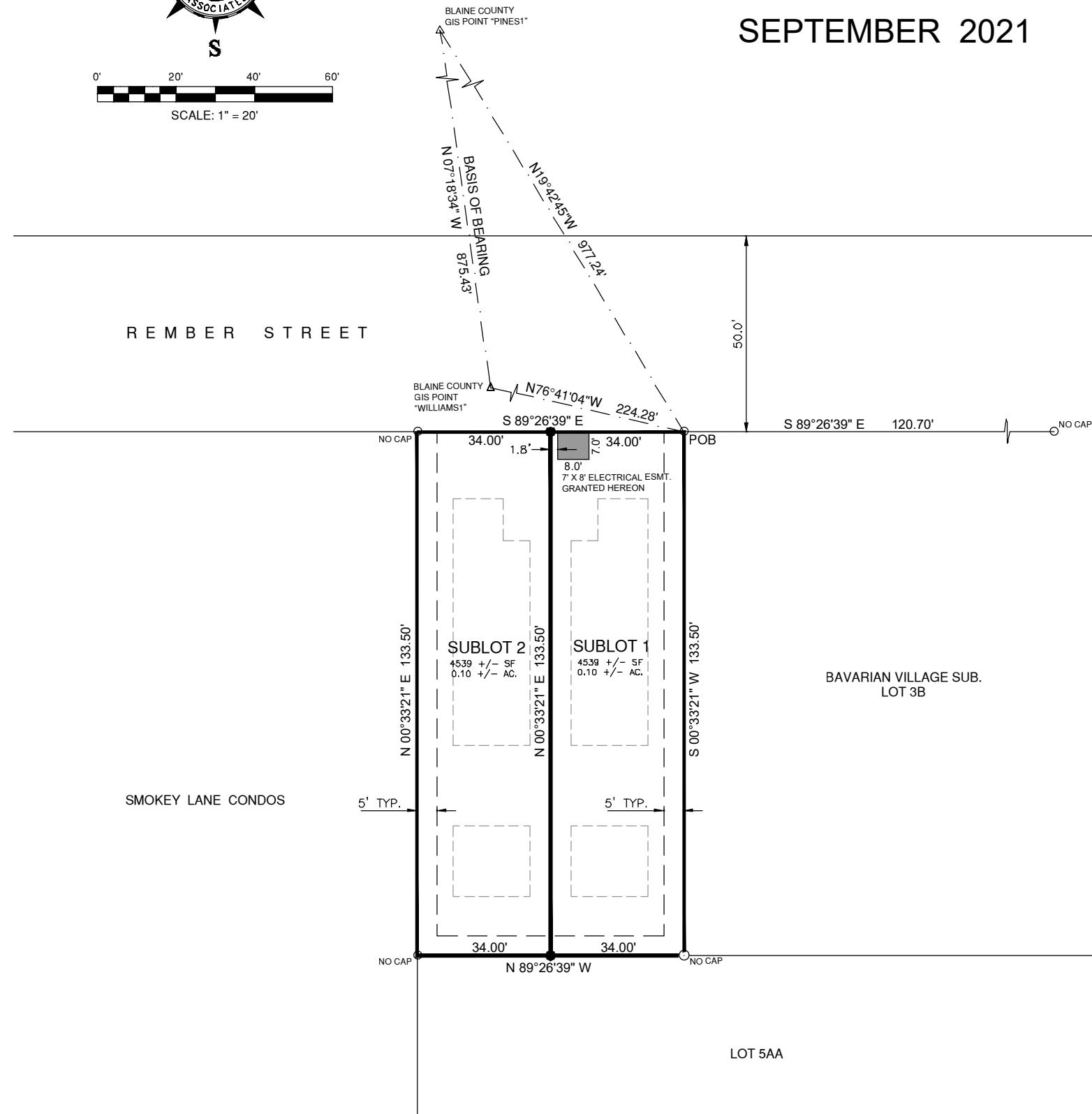
### SURVEYOR NARRATIVE & NOTES

1. THE PURPOSE OF THIS PLAT IS TO REPLAT LOT 2, BAVARIAN VILLAGE SUBDIVISION INTO TOWNHOMES AS SHOWN. THE BOUNDARY SHOWN IS BASED ON FOUND MONUMENTS AND THE RECORDED PLAT OF BAVARIAN VILLAGE SUBDIVISION, INSTRUMENT NO. 139821, RECORDS OF BLAINE COUNTY, IDAHO. ALL FOUND MONUMENTS WERE ACCEPTED AS EITHER ORIGINAL OR REPLACEMENTS OF ORIGINAL CORNERS.
2. ALL TOWNHOUSE OWNERS SHALL HAVE MUTUAL RECIPROCAL EASEMENTS FOR EXISTING AND FUTURE PUBLIC AND PRIVATE UTILITIES INCLUDING, BUT NOT LIMITED TO, WATER, CABLE TV, SEWER, NATURAL GAS, TELEPHONE, AND ELECTRIC LINES OVER, UNDER AND ACROSS THEIR TOWNHOUSE SUBLOTS AND COMMON AREA FOR THE REPAIR, MAINTENANCE AND REPLACEMENT THEREOF.
3. THE TOWNHOME DECLARATION AND PARTY WALL AGREEMENT FOR BAVARIAN VILLAGE TOWNHOMES ARE RECORDED AS INST. NO. \_\_\_\_\_, RECORDS OF BLAINE COUNTY, IDAHO.
4. THE CURRENT ZONING IS GENERAL RESIDENTIAL HIGH DENSITY (GR-H). REFER TO THE CITY OF KETCHUM ZONING CODE FOR MORE INFORMATION ABOUT THIS ZONE.

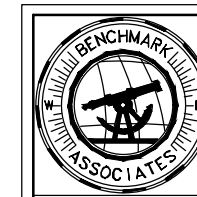
### HEALTH CERTIFICATE

Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.

Date: \_\_\_\_\_ South Central Public Health District, REHS



LOT 5AA



## BAVARIAN VILLAGE TOWNHOMES

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: TIMOTHY LINEHAN

PROJECT NO. 19162	DWG BY: DWS/CPL	FILE: 19162PG1.DWG
FINAL PLAT	DATE: 09/10/2021	SHEET: 1 OF 3



# BAVARIAN VILLAGE TOWNHOMES

## OWNER'S CERTIFICATE

THIS IS TO CERTIFY that TIMOTHY J. LINEHAN, an unmarried man is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, Ketchum, Idaho, more particularly described as follows:

Lot 2 of BAVARIAN VILLAGE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 139821, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

It is the intention of the undersigned to and they do hereby include said land in this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

\_\_\_\_\_  
TIMOTHY J. LINEHAN

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )


On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2021, before me, the undersigned, personally appeared TIMOTHY J. LINEHAN, known or identified to me (or proved to me), to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

Residing at: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

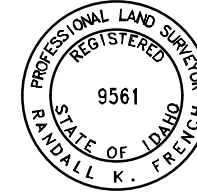
	<b>BAVARIAN VILLAGE TOWNHOMES</b>	
	<small>LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO</small>	
<small>PREPARED FOR: TIMOTHY LINEHAN</small>		
<small>PROJECT NO. 19162</small>	<small>DWG BY: CPL</small>	<small>FILE: 19162CRT.DWG</small>
<small>FINAL PLAT</small>	<small>DATE: 08/09/2021</small>	<small>SHEET: 2 OF 3</small>

# BAVARIAN VILLAGE TOWNHOMES

## SURVEYOR'S CERTIFICATE

I, Randall K. French, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed under my direct supervision in accordance with the State of Idaho Code relating to plats and surveys.

RANDALL K. FRENCH, P.L.S. #9561



## COUNTY SURVEYOR'S APPROVAL

This is to certify that I, SAM YOUNG, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

\_\_\_\_\_  
BLAINE COUNTY SURVEYOR

\_\_\_\_\_  
DATE

## CITY ENGINEER'S APPROVAL

I, \_\_\_\_\_, City Engineer for Ketchum, Idaho do hereby approve the foregoing plat.

By: \_\_\_\_\_

\_\_\_\_\_  
DATE

## CITY OF KETCHUM APPROVAL

I, \_\_\_\_\_, Planner in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision Ordinance.

By: \_\_\_\_\_

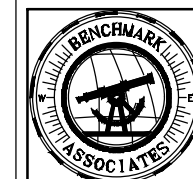
Certified by: \_\_\_\_\_

TARA FENWICK, City Clerk

## BLAINE COUNTY TREASURER'S CERTIFICATE

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: \_\_\_\_\_



## BAVARIAN VILLAGE TOWNHOMES

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: TIMOTHY LINEHAN

PROJECT NO. 19162	DWG BY: CPL	FILE: 19162CRT.DWG
FINAL PLAT	DATE: 08/09/2021	SHEET: 3 OF 3



**WARRANTY DEED**

FOR VALUE RECEIVED

The Ochi Blaine County LLC, an Idaho Limited Liability Company,  
the Grantor, hereby grants, bargains, sells, conveys and warrants unto

Timothy J. Linehan, an unmarried man

the Grantee, whose current address is: 9038 15th Ave, Seattle, ID 98117


the following described premises, to-wit:

Lot 2 of BAVARIAN VILLAGE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 139821, records of Blaine County, Idaho.

**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated this 25 day of July, 2017.

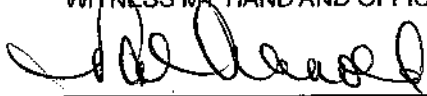
THE OCHI BLAINE COUNTY LLC

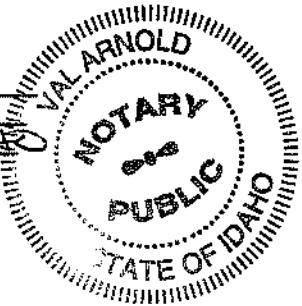
  
Jonathan Roy Ochi  
Manager

State of IDAHO  
County of BONNEVILLE

On this 25 day of July, 2017, before me, the undersigned, a Notary Public, in and for said State, personally appeared Jonathan Roy Ochi, known to me, and/or identified to me on the basis of satisfactory evidence, to be the Manager of the Limited Liability Company that executed the within instrument and the foregoing instrument was signed on behalf of said company by authority of its members and acknowledged to me that he/she/they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

  
Notary Public VAL ARNOLD  
Residing at: 1514 S. 10th St. County IDAHO  
My Commission Expires: 11/01/18



## CLTA LOT BOOK GUARANTEE

ISSUED BY  
STEWART TITLE GUARANTY COMPANY  
a corporation, herein called the Company

**SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, AND SUBJECT TO THE FURTHER EXCLUSION AND LIMITATION THAT NO GUARANTEE IS GIVEN NOR LIABILITY ASSUMED WITH RESPECT TO THE IDENTITY OF ANY PARTY NAMED OR REFERRED TO IN SCHEDULE A OR WITH RESPECT TO THE VALIDITY, LEGAL EFFECT OR PRIORITY OF ANY MATTER SHOWN THEREIN.**

### GUARANTEES

the Assured named in Schedule A against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

Countersigned by:

  
Authorized Countersignature

Blaine County Title, Inc.  
360 Sun Valley Road  
P.O. Box 3176  
Ketchum, ID 83340  
Agent ID: 120037

**stewart**  
title guaranty company





**Matt Morris**  
President and CEO



**Denise Carraux**  
Secretary

For purposes of this form the "Stewart Title" logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

© California Land Title Association. All rights reserved.

The use of this Form is restricted to CLTA subscribers in good standing as of the date of use. All other uses are prohibited.

Reprinted under license or express permission from the California Land Title Association

File No.: 1921964

Lot Book Guarantee (6-6-92)

Page 1 of 3 of Policy Serial No.: G-0000-016583608

## GUARANTEE CONDITIONS AND STIPULATIONS

1. **Definition of Terms** – The following terms when used in this Guarantee mean:
  - (a) "the Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
  - (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
  - (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
  - (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
  - (e) "date": the effective date;
2. **Exclusions from Coverage of this Guarantee** – The Company assumes no liability for loss or damage by reason of the following:
  - (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
  - (b) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water: whether or not the matters excluded by (1), (2) or (3) are shown by the public records.
  - (c) Assurances to title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A)(C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
  - (d) (1) Defects, liens, encumbrances, or adverse claims against the title, if assurances are provided as to such title, and as limited by such assurances. (2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records, and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of assurances provided.
3. **Notice of Claims to be Given by Assured Claimant** – An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required, provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.
4. **No Duty to Defend or Prosecute** – The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.
5. **Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate** – Even though the Company has no duty to defend or prosecute as set forth in Paragraph 4 above:
  - (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
  - (b) If the Company elects to exercise its options as stated in Paragraph 5(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
  - (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
  - (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.
6. **Proof of Loss or Damage** – In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.
7. **Options to Pay or Otherwise Settle Claims; Termination of Liability** – In case of a claim under this Guarantee, the Company shall have the following additional options:
  - (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

© California Land Title Association. All rights reserved.

The use of this Form is restricted to CLTA subscribers in good standing as of the date of use. All other uses are prohibited.

Reprinted under license or express permission from the California Land Title Association

File No.: 1921964

Lot Book Guarantee (6-6-92)

Page 2 of 3 of Policy Serial No.: G-0000-016583608

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such Purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of the indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its option under Paragraph 5, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To Pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5.

**8. Determination and Extent of Liability** – This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the exclusions stated in Paragraph 2.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- (a) the amount of liability stated in Schedule A;
- (b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 7 of these Conditions and Stipulations or as reduced under Section 10 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
- (c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

**9. Limitation of Liability** –

- (a) If the Company establishes the title or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
- (c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

**10. Reduction of Liability or Termination of Liability** – All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 5 shall reduce the amount of liability pro tanto.

**11. Payment of Loss**

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

**12. Subrogation Upon Payment or Settlement** – Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest and costs of collection.

**13. Arbitration** – Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules. A copy of the Rules may be obtained from the Company upon request.

**14. Liability Limited to This Guarantee; Guarantee Entire Contract** –

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**15. Notices, Where Sent** – All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at P.O. Box 2029, Houston, Texas 77252-2029.

© California Land Title Association. All rights reserved.

The use of this Form is restricted to CLTA subscribers in good standing as of the date of use. All other uses are prohibited.

Reprinted under license or express permission from the California Land Title Association

File No.: 1921964

Lot Book Guarantee (6-6-92)

Page 3 of 3 of Policy Serial No.: G-0000-016583608

**LOT BOOK GUARANTEE  
SCHEDULE A**

**File No.:** 1921964

**Guarantee No.:** G-0000-016583608

**Date of Guarantee:** November 04, 2019 at 8:00 am

**Liability:** \$1,000.00

**Premium:** \$120.00

**A. Assured:**

Benchmark Associates

**B. Assurances, given without examination of the documents listed or referred to and only to the specifically named documents and no others:**

**1. Description of the land in Blaine County, Idaho:**

Lot 2 of BAVARIAN VILLAGE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 139821, records of Blaine County, Idaho.

**2. The last recorded instrument in the public records purporting to transfer title to said land was:**

Warranty Deed, recorded as Document No. 645398, conveying said real property to:

Timothy J. Linehan, an unmarried man

3. That there are no mortgages or deeds of trust describing the land that have not been released or reconveyed by an instrument recorded in the public records, other than those shown below under Exceptions.

4. That there are no contracts for sales, contracts for deed, including memorandums giving notice of such contracts, attachments, tax deed recorded within the last 9 years, which purport to affect the land other than shown below under Exceptions.

**C. Exceptions:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by Public Records.

2. Any facts, rights, interests, or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.

3. Easements, liens, or encumbrances, or claims thereof, which are not shown by the Public Records.

4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.



5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims, or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. Stewart makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interest that are not listed.
8. General taxes for the year 2019, a lien in the amount of \$2,358.12, of which the first half is due on or before December 20, 2019 and the second half is due on or before June 20, 2020. (Parcel No. RPK04200000020)
9. Water and sewer charges of the City of Ketchum.
10. Ketchum rubbish charges billed by Clear Creek Disposal.
11. Notes, Easements and Restrictions as shown on the plat of Bavarian Village Subdivision, recorded August 2, 1971 as [Instrument No. 139821](#), records of Blaine County, Idaho.
12. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:  
Amount: \$217,000.00  
Dated: 07/26/2017  
Grantor: Timothy J. Linehan, an unmarried man  
Trustee: Blaine County Title, Inc.  
Beneficiary: Washington Federal, National Association  
Recorded: 08/01/2017, as Instrument No. 645399, records of Blaine County, Idaho  
  
Modification of Deed of Trust,, recorded 07/25/2019, as Instrument No. 661874, records of Blaine County, Idaho.

## STG Privacy Notice Stewart Title Companies

### WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its title affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information.	Do we share	Can you limit this sharing?
<b>For our everyday business purposes</b> — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you.	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness.	No	We don't share
<b>For our affiliates to market to you</b> — For your convenience, Stewart has developed a means for you to opt out from its affiliates marketing even though such mechanism is not legally required.	Yes	Yes, send your first and last name, the email address used in your transaction, your Stewart file number and the Stewart office location that is handling your transaction by email to <a href="mailto:optout@stewart.com">optout@stewart.com</a> or fax to 1-800-335-9591.
<b>For non-affiliates to market to you.</b> Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

### SHARING PRACTICES

<b>How often do the Stewart Title Companies notify me about their practices?</b>	We must notify you about our sharing practices when you request a transaction.
<b>How do the Stewart Title Companies protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer, file, and building safeguards.
<b>How do the Stewart Title Companies collect my personal information?</b>	We collect your personal information, for example, when you <ul style="list-style-type: none"> <li>▪ request insurance-related services</li> <li>▪ provide such information to us</li> </ul> We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.
<b>What sharing can I limit?</b>	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

**Contact us:** *If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1360 Post Oak Blvd., Ste. 100, Privacy Officer, Houston, Texas 77056*

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

BENJAMIN W. WORST, P.C.  
Attorney At Law  
P.O. Box 6962  
Ketchum, Idaho 83340

---

---

(Space Above For Recorder's Use)

**TOWNHOUSE DECLARATION**

**FOR THE**

**BAVARIAN VILLAGE TOWNHOMES**

THIS TOWNHOUSE DECLARATION dated for reference purposes \_\_\_\_\_, 2020, shall be effective upon recordation in the office of the Blaine County, Idaho Recorder. This Declaration is made by TIMOTHY J. LINEHAN, an unmarried man.

**SECTION 1 - RECITALS**

**1.1 Property Covered.** Declarant is the owner of certain property and the improvements thereon located in the City of Ketchum, County of Blaine, State of Idaho, which is more particularly described as Lot 2 of BAVARIAN VILLAGE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 139821, records of Blaine County, Idaho and converted to Sublot 1 and Sublot 2, BAVARIAN VILLAGE TOWNHOMES as set forth on the plat attached hereto as **Exhibit "A"** and made a part hereof be recorded simultaneously here with.

**1.2 Intention of Declarant.** The Property has been approved by the City of Ketchum, Idaho, for a townhouse subdivision, as set forth on the plat attached hereto as Exhibit "A". Declarant intends to provide for townhouse ownership of the Property, as improved, under Section 16.04 of the Subdivision Ordinance of the City of Ketchum, which provides for ownership of individual Townhouses and Sublots by the individual Owners. It is the intention of Declarant to sell and convey or keep, each individual Townhouse/Sublot together with the improvements thereon. Such sales shall be subject to the protective restrictions, covenants and conditions contained in this Declaration which are for the mutual benefit of the present and future Owners and are intended to preserve the value, desirability and attractiveness of the

Townhouses/Sublots, to create and protect the highest quality development of the property and to ensure proper maintenance thereof.

## **SECTION 2 - DECLARATION**

Declarant hereby declares that all of the Property and each Sublot/Townhouse shall be held, occupied, used, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and each Sublot/Townhouse and be binding on all parties having any rights, title or interest in the Property, a Sublot or a Townhouse or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## **SECTION 3 - DEFINITIONS**

**Definitions.** The following terms shall have the following meanings:

"Declarant" shall mean TIMOTHY J. LINEHAN, an unmarried man.

"Declaration" shall mean this Townhouse Declaration and any amendments here to.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Townhouse/Sublot, but excluding those having such interests merely as security for the performance of an obligation.

"Persons" shall include natural persons, partnerships, corporations, companies, trusts, entities, associations and personal representatives.

"Plat" shall mean the final plat for the BAVARIAN VILLAGE TOWNHOMES recorded in the official records of Blaine County, Idaho concurrently herewith.

"Property" shall mean and refer to Lot 2 of BAVARIAN VILLAGE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 139821, records of Blaine County, Idaho and converted to Sublot 1 and Sublot 2, BAVARIAN VILLAGE TOWNHOMES as set forth on the plat attached hereto as Exhibit "A".

"Sublot" shall mean and refer to any one of the parcels which constitute a portion of the Property as depicted on Exhibit A. The terms Townhouse and Sublot whether used individually or collectively shall refer to both the Townhouse and the underlying Sublot.

"Townhouse" shall mean the single-family residential improvements located on each Sublot.

## **SECTION 4 - PROPERTY RIGHTS**

**4.1 Declarant is the Original Owner.** Declarant is the original Owner of the Property and all improvements located thereon and will continue to be deemed the Owner

thereof except as conveyances or documents changing such ownership regarding specifically described Sublots within the Property are filed of record.

**4.2 Sublots.** Subject to the provisions of this Declaration, each Owner shall have the exclusive right to own, use and enjoy the Sublot owned by such Owner.

**4.3 Inseparability.** No part of a Sublot or Townhouse or of the legal rights comprising ownership of a Sublot or Townhouse may be separated from any other part thereof during the period of Townhouse ownership prescribed herein, so that each Townhouse and Sublot shall always be conveyed, devised, encumbered and otherwise affected only as a complete Townhouse and Sublot.

**4.4 No Partition.** No Owner may bring any action for partition of the Sublots or Townhouses.

**4.5 Taxes.** Each Owner shall execute such instruments and take such actions as may be reasonably required to obtain separate real property tax assessments of the interest of each Owner in each Townhouse/Sublot. Each Owner shall pay the taxes or assessments assessed against such Owner's respective Townhouse/Sublot.

**4.6 Easements.** In addition to any easements of record effecting the Property and any easements depicted on the Plat, the following easements, rights and obligations are hereby created:

**4.6.1 Right to Use.** Subject to the provisions of this Declaration, each Owner shall have the right to use, enjoy and receive the benefit of any easements created hereunder.

**4.6.2 Utility Easement.** There is hereby created an easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, television, cable and communication lines and systems for those utilities initially installed by the Declarant.

**4.6.3 Easement for Owner Duties.** There is hereby reserved to Declarant and each Owner, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Owners as set forth herein.

**4.6.4 Easement for Encroachments.** Each Sublot is hereby declared to have an easement over the adjoining Sublot for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settling or shifting of any improvement located on any Sublot, or any other similar cause, any encroachment due to building overhang or projection, or any encroachment created by landscaping walls and fences along Sublot property lines. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of the Owner shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful act or negligence with full knowledge of said Owner. In the event any building or improvement

on a Sublot is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over the adjoining Sublot shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachment shall not be construed to be encumbrances affecting the marketability of title to either Sublot.

**4.6.5 Easement Over Sublots.** There is hereby reserved to each Owner an easement over the adjoining Sublot to the extent reasonably necessary to permit said Owner to repair, maintain and improve the improvements on said Owner's Sublot; and to permit said Owner to move personal property in and out of the improvements on said Owner's Sublot. Provided, each Owner shall utilize only such portion of the other Sublot, and only for such duration as is reasonably necessary to accomplish a permitted purpose and in a manner that will not unnecessarily disturb the peaceful enjoyment of the other Sublot by the Owner thereof; and at said Owner's sole expense, repair any damage caused to the other Sublot and improvements to as near the original condition as reasonably practicable.

**4.7 Alterations.** This Declaration shall not impose any restriction on an Owner's right to make improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which might alter the Owner's Townhouse, Sublot or the improvements located thereon.

**4.8 Nuisances.** No nuisance shall be permitted to exist or operate upon any Sublot or improvement thereon so as to be detrimental to any other Sublot or property in the vicinity thereof or to its occupants.

**4.9 Maintenance.** Each Owner is responsible for all maintenance, repair and replacement of such Owner's Townhouse, Sublot and all improvements thereon and shall keep the Sublot/Townhouse and all improvements therein or thereon in good order and repair and free of debris, including, but not limited to, the following: landscaping, irrigation, plumbing, electrical lines, gas lines and gas and electric meters, windows, doors, including door hardware such as knobs and locks, keys, garage mechanical systems, window and door screens, siding, telephone, television lines or other lines servicing solely a Sublot, weather stripping, chimney cleaning, dryer vents, and each Townhouse's fire system.

**4.10 Signs.** No sign of any kind shall be displayed to the public view, except such signs of customary and reasonable dimensions which may be displayed on or from a Townhouse advertising that such Townhouse is for sale.

**4.11 Permitted Uses.** The Townhouses and Sublots shall be used for residential purposes only. Owners may engage in home occupations and lease the Townhouses as set forth herein below.

**4.12 Leasing.** Nothing in this Declaration shall prevent or in any manner restrict the Townhouse on Sublot 1 from being leased or rented. The Townhouse on Sublot 2 is hereby restricted insofar as it may only be leased or rented for minimum periods of 30 (Thirty) consecutive days. There shall be no subleasing of the Townhouse on Sublot 2. Leasing and

renting shall include, without limitation, short-term rentals whether on AirBnB, VRBO or any similar sites and business.

**4.13 No Hazardous Activities.** No activities shall be conducted on or in any Townhouse or Sublot and no hazardous improvements shall be constructed on or in any Townhouse or Sublot. Without limiting the generality of the foregoing, no firearms shall be discharged upon or in any Townhouse or Sublot and no open fires shall be lighted or permitted on or in any Townhouse or Sublot except in a contained fireplace, barbecue, grill or fire pit while attended.

**4.14 Compliance with the Law.** Zoning regulations, building regulations, environmental regulations and other similar governmental laws and regulations applicable to the Property shall be observed. In the event of any conflict between any provision of such governmental regulations and the restrictions of this Declaration, the more restrictive provisions shall apply

## SECTION 5 - INSURANCE

**5.1 Insurance by Owners.** Every Owners shall obtain fire insurance, with extended coverage endorsement, including vandalism, malicious mischief, debris removal, cost of demolition, windstorm and water damage, in an amount equal to or greater than the replacement value of such Owner's Townhouse without deduction for depreciation, together with comprehensive liability insurance. All such policies shall name the Owner of the adjoining Townhouse as co-insured and shall not be cancelled without thirty (30) days notice to the other Owner.

**5.2 Reconstruction.** In the event of damage or destruction by fire or other casualty to either Sublot or Townhouse, the Owner thereof shall, upon receipt of the insurance proceeds, repair or rebuild such damage or destroyed portions of the Sublot and Townhouse in a good workmanlike manner substantially the same as the original plans and specifications of said property.

## SECTION 6 - MISCELANEOUS

**6.1 Amendment.** The provisions of this Declaration may be amended only by an instrument in writing signed, acknowledged and recorded by unanimous agreement of the Owners. Such an amendment shall be effective upon recording with the Blaine County, Idaho Recorder.

**6.2 Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered personally, by email or by USPS mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the other Owners for the purpose of service of such notice, or to the mailing address on the Owner's most recent deed of record if no address has been given to the other Owners. Such address may be changed from time to time by notice in writing to the other Owners.

**6.3 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the operation of the Townhouses/Sublots. All provisions shall be construed so as to be in conformance with the laws of the State of Idaho, the City of Ketchum and all other governmental regulatory agencies.

**6.4 Governing Law/Venue.** This Declaration shall be construed and governed under the laws of the State of Idaho. Any legal, equitable or administrative action in any manner related to or arising from this Declaration shall be heard and tried in Blaine County, Idaho.

**6.5 Enforcement and Non-Waiver.** Every Owner shall have the right to enforce any or all of the provisions of this Declaration. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Sublot or Townhouse is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement. The failure to enforce any of the provisions of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provisions hereof. In the event that any Owner must retain the services of an attorney to enforce its rights hereunder, the defaulting party shall pay the non-defaulting party's reasonable attorney fees and costs, whether or not litigation is commenced and including reasonable attorney fees and costs on appeal.

**6.6 Owners' Obligations Continue.** All obligations of every Owner under this Declaration accrued during such Owner's ownership of a Townhouse/Sublot shall continue, notwithstanding that such Owner may have leased or transferred such Owner's interest in such Townhouse/Sublot. No Owner shall have any obligation for expenses or other obligations accrued after such Owner conveys such Owner's Townhouse/Sublot.

**6.7 Duration.** The covenants and restrictions of this Declaration shall run with the land and bind it for a term commencing on the date hereof and ending upon the written revocation of all of the Owners.

This Declaration is executed effective this \_\_\_\_ day of \_\_\_\_\_, 2020.

DECLARANT

\_\_\_\_\_  
TIMOTHY J. LINEHAN,  
an unmarried man



STATE OF IDAHO            )  
  ) ss.  
County of Blaine            )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me \_\_\_\_\_, a notary public in and for said state, personally appeared TIMOTHY J. LINEHAN, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Hold a Public Hearing and Approve the Smiles Subdivision Lot Line Shift Final Plat & Findings of Fact, Conclusions of Law, and Decision.**

#### Recommendation and Summary

Staff recommends the Ketchum City Council hold a public hearing and approve the Lot Line Shift Final Plat submitted by Sean Flynn PE of Galena Engineering on behalf of property owner Mike Marlow (Lot 1A) to dedicate a portion of the lot to the City of Ketchum for Right of Way.

Recommended Motion: "I move to approve the Smiles Subdivision Lot Line Shift Final Plat & Findings of Fact, Conclusions of Law, and Decision."

The reasons for the recommendation are as follows:

- The request to subdivide meets all applicable standards for Final Plats contained in Ketchum Municipal Code's Subdivision (Title 16) regulations.
- The lot will continue to meet all applicable zoning and subdivision standards including, but not limited to, minimum lot size, setbacks, and building coverage standards for the LR zone.
- All city departments have reviewed the proposal and have no issue with the proposed lot line shift.

#### Analysis

Lot 1A of Smiles Subdivision is located just north of 319 Parkway Dr. Smiles Subdivision was platted in 2011 and all infrastructure and public improvements in the subdivision are complete.

Lot 1A is currently vacant with no structure built on site. The owner wishes to dedicate 727 sq ft in the southeast corner of the lot to the City of Ketchum for Right of Way in order to ensure that this portion of property remains undeveloped in perpetuity. This action will result in Lot 1B with a total area of 15,451 square feet. Lot 1B will both continue to meet the dimensional standards for setbacks, building coverage, and so forth as required by the zoning code.

The hearing for this action was properly noticed and no public comment has been received as of November 15, 2021.

#### Financial Impact

None

#### Attachments

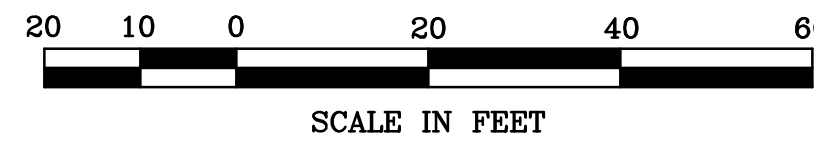
Lot 1B, Block 1, Smiles Subdivision, Final Plat  
Draft Findings of Fact, Conclusions of Law, and Decision

Exhibit A:

Lot 1B, Block 1, Smiles Subdivision Plat

A PLAT SHOWING  
**LOT 1B, BLOCK 1, SMILES SUBDIVISION**  
 LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 WHEREIN A PORTION OF LOT 1A, BLOCK 1, SMILES SUBDIVISION IS DEDICATED TO THE CITY OF KETCHUM FOR RIGHT OF WAY

SEPTEMBER 2021



SCALE: 1" = 20'

Curve Table						
Curve	Length	Radius	Delta	Tangent	Chord	Chord Direction
C1	66.09'	135.45'	27° 57' 15"	33.71'	65.43'	S15° 58' 52"E

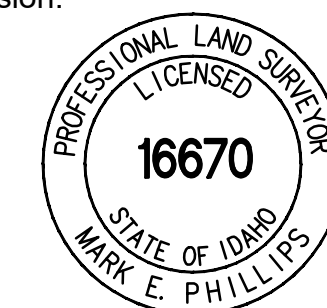
<b>LEGEND</b>	
	Property Line
	Proposed Property Line
	Adjoinder's Lot Line
	Centerline of Right of Way
	Right of Way Dedication
	Easement, Type and Width as Shown
	Mean High Water (05/2020 by Sawtooth Environmental Consultants)
	Riparian Setback (see note 7)
	Riprap Location
	2010 FEMA Floodway Line
	2010 FEMA Floodplain Line
	Building Envelope with Minimum Side Yard Setback Shown (see note 2)
	Survey Tie Line
	GIS Tie Line
	1' Contour Interval per 2017 LIDAR
	Found 1/2" Rebar
	Found 5/8" Rebar
	Found Aluminum Cap on 5/8" Rebar
	Calculated Point (Nothing Set)
	Set 5/8" Rebar, P.L.S. 16670

**SURVEY NARRATIVE & NOTES**

- The purpose of this survey is to show the monuments found and set during the boundary retracement of Lot 1A, Block 1, Smiles Subdivision, and to designate a parcel of land as Right of Way to the City of Ketchum as shown hereon. The Boundary shown is based on found lot corner monuments, the Plat of Lot 1A, Block 1, Smiles Subdivision & Revised Tax Lot 7550, Instrument Number 674568, and the Plat of Park Wood Subdivision, Instrument Number 136388, both records of Blaine County, Idaho. All found monuments have been accepted. The additional documents used in the course of this survey include the Record of Survey for Park Wood Subd., Lot 13, Amended, Instrument Number 421340, and the Plat of Smiles Subdivision, Instrument Number 593718, both records of Blaine County, Idaho. Refer to the Easements, Plat Notes, Conditions, Covenants, and Restrictions on the above listed plats.
- The Building Envelope Setbacks shown hereon are the minimum required setbacks based on the current zoning and overlay district. Side yard setbacks are based on Building height, being 1' setback for 2' of building height, with a 35' building height maximum.
- Floodplain, Floodway and Mean High Water Lines shown hereon are subject to change. Mean High Water Line shown is from survey data gathered on 05/2020.
- A 10' Fisherman's Access & Nature Study easement exists for the public as shown hereon.
- The Floodplain area designated on this plat is considered by the owner, the City of Ketchum, and Galena Engineering, Inc., as reasonable for regulatory purposes. However, neither the owner, the City of Ketchum, nor Galena Engineering, Inc., represents, guarantees, warrants, or implies that areas outside the designated floodplain area are safe and free from floods or flood damage. Sheet flooding can and will occur and flooding may extend beyond the floodplain boundary lines identified hereon. Flood information is from FEMA Map Number 16013C0461E, dated Nov. 26, 2010.
- All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.
- The Mean High Water Line shown hereon is per a delineation by Sawtooth Environmental Consultants in May of 2020. This line, and the associated 25' Riparian Setback, do not fall upon this subdivision except for a small piece at the southern end. No structures are permitted within this setback, riparian vegetation shall be maintained in its natural state for the protection and stabilization of the river bank, and removal of trees or other vegetation shall be considered as part of the function of the City of Ketchum Design Review process.
- The current zoning is Limited Residential, with Floodplain Overlay. Refer to the City of Ketchum Zoning Ordinance for more information about this zone and overlay district.
- The owner/line line shift applicant is Smiles Riverhouse, LLC, C/O Mike Marlow, 1015 S Harbor Blvd., Oxnard, CA 93035. The Surveyor/representative is Mark E. Phillips, Galena Engineering, Inc., 317 N River St., Hailey, ID 83333.

**CERTIFICATE OF SURVEYOR**

I hereby certify that I am a Registered Land Surveyor in the State of Idaho and that this map is a true and accurate representation of a survey done under my direct supervision.



LOT 1B, BLOCK 1,  
SMILES SUBDIVISION

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

MARK E. PHILLIPS, P.L.S. 16670

SHEET 1 OF 2  
Job No. 1318-180-01

HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

Date \_\_\_\_\_ South Central Public Health District

**CERTIFICATE OF OWNERSHIP**

This is to certify that the undersigned are the owners in fee simple of the following described parcel of land:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, City of Ketchum, Blaine County, Idaho; more particularly described as follows:

Lot 1A, Block 1, Smiles Subdivision

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements. We do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water system has agreed in writing to serve all the lots shown within this plat. A portion of Lot 1A, Block 1, Smiles Subdivision, as shown on this plat, is hereby dedicated to the City of Ketchum in perpetuity.

It is the intent of the owners to hereby include said land in this plat.

Smiles Riverhouse LLC, an Idaho Limited Liability Company  
Michael Marlow, Manager

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss

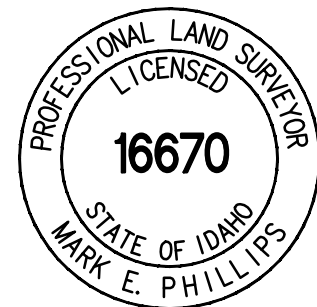
On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public in and for said State, personally appeared Michael Marlow, known or identified to me to be the manager of the limited liability company that executed the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for said State  
Residing in \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and Condominiums and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.



MARK E. PHILLIPS, P.L.S. 16670

**ACCEPTANCE OF DEDICATION BY CITY OF KETCHUM**

Dedication of the portion of Lot 1A, Block 1, Smiles Subdivision as right-of-way, as shown on this plat, was approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the City of Ketchum.

\_\_\_\_\_  
City Clerk

**BLAINE COUNTY SURVEYOR'S APPROVAL**

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys

\_\_\_\_\_  
Sam Young, P.L.S. 11577  
Blaine County Surveyor

\_\_\_\_\_  
Date

**KETCHUM CITY ENGINEER'S APPROVAL**

The foregoing plat was approved by \_\_\_\_\_, City Engineer for the City of Ketchum on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
City Engineer

**KETCHUM CITY COUNCIL'S APPROVAL**

I, \_\_\_\_\_, Planner in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision-Ordinance.

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Certified by City Clerk

By: \_\_\_\_\_

\_\_\_\_\_  
Date

**BLAINE COUNTY TREASURER'S APPROVAL**

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

\_\_\_\_\_  
Blaine County Treasurer

\_\_\_\_\_  
Date

**BLAINE COUNTY RECORDER'S CERTIFICATE**

LOT 1B, BLOCK 1,  
SMILES SUBDIVISION

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

SHEET 2 OF 2  
Job No. 1318-180-01

Exhibit B:  
Findings of Fact,  
Conclusions of Law,  
and Decision



**City of Ketchum  
Planning & Building**

IN RE:	)	
	)	
Smiles Subdivision Lot Line Shift	)	<b>KETCHUM CITY COUNCIL</b>
Lot Line Shift	)	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND</b>
Date: November 18, 2021	)	<b>DECISION</b>
	)	
File Number: P21-084	)	

**Findings Regarding Application Filed**

**PROJECT:** Smiles Subdivision Lot Line Shift

**APPLICATION TYPE:** Lot Line Shift (Dedication)

**FILE NUMBER:** P21-084

**OWNER:** Mike Marlow

**REPRESENTATIVE:** Sean Flynn, Galena Engineering

**REQUEST:** Final Plat dedication to the City of Ketchum for Right of Way

**LOCATION:** Lot north of 319 Parkway Drive (Lot 1A of Smiles Subdivision)

**NOTICE:** A public hearing notice was mailed to all property owners within 300 feet of the project site and political subdivisions on October 27, 2021. The public hearing notice was published in the Idaho Mountain Express on October 27, 2021.

**ZONING:** Limited Residential (LR) Zoning District

**Findings Regarding Application Filed**

This Lot Line Shift application, submitted by Sean Flynn of Galena Engineering on behalf of property owner Mike Marlow proposes to dedicate a portion of Lot 1A to the City of Ketchum for Right of Way. Lot 1A is located just north of 319 Parkway Dr within the Limited Residential (LR) District.

The dedication will result in a Lot 1B that is 15,451 square feet.

**Findings Regarding Readjustment of Lot Lines (KMC §16.04.060)**

Consistent with Ketchum Municipal Code (KMC) §16.04.020, the proposal meets the definition of Readjustment of Lot Lines because: (1) Smiles Subdivision Lot 1B complies with the dimensional standards required for properties located within Limited Residential (LR) Zoning District, and (2) the proposal does not create additional lots or dwelling units.

*Readjustment of Lot Lines: A change or modification of the boundary lines between existing lots or parcels of land or between dwelling units which does not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements and which does not create*

additional lots or dwelling units. "Readjustment of lot lines" includes other minor changes to a subdivision, condominium, or townhouse plat such as, but not limited to, notation changes, boundary shifts and removal of lot line(s), each of which do not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements nor create additional lots or dwelling units (KMC §16.04.020).

Consistent with KMC §16.04.060.B, the Readjustment of Lot Lines application was transmitted to City Departments including the City Engineer, Fire, Building, Utilities, and Streets departments for review. As specified in Condition of Approval #2, the amended subdivision plat shall meet all governing ordinances, requirements, and regulations of the Fire Department (2012 International Fire Code and local Fire Protection Ordinance No.1125), Building Department (2012 International Building Code, the 2012 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.

All land, condominium, and townhouse subdivisions within the City of Ketchum are subject to the standards contained in Ketchum Municipal Code, Title 16, Subdivision Regulations. Pursuant to KMC §16.04.010.D, the change or modification of boundary lines, whether or not any additional lot is created, shall comply with these regulations. Many subdivision standards are related to the design and construction of multiple new lots that will form new blocks and infrastructure, such as streets that will be dedicated and maintained by the City. The standards for certain improvements (KMC §16.04.040), including street, sanitary sewage disposal, and planting strip improvements, are not applicable to the subject project as the application proposes to combine two lots. As conditioned, the proposed Lot 1B, Block 1, Smiles Subdivision Plat meets the standards for Readjustment of Lot Lines under Title 16 of Ketchum Municipal Code.

**Table 1: Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements**

Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements				
Compliant			Standards and Council Findings	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	<p><b>Contents Of Final Plat:</b> The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:</p> <p><b>Council Findings</b> The mylar paper shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	<p><b>Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.</b></p> <p><b>Council Findings</b> As conditioned, this standard shall be met. The plat mylar shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	<p><b>Location and description of monuments.</b></p> <p>As conditioned, this standard shall be met. The final plat mylar shall show the location and description of monuments.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	<p><b>Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.</b></p>



			<b>Council Findings</b>	<i>The plat indicates Parkway Drive as well as the building envelope and public utility, public access, scenic, fisherman's access &amp; nature study easements. The boundaries of the floodplain and floodway are also shown on the plat.</i>  <i>As conditioned, this standard shall be met. The final plat mylar shall show tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.4</b>	<b>Names and locations of all adjoining subdivisions.</b>
			<b>Council Findings</b>	<i>There are no adjoining subdivisions. The plat indicates the adjacent Tax Lots 7550 and 8102.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.5</b>	<b>Name and right of way width of each street and other public rights of way.</b>
			<b>Council Findings</b>	<i>This standard has been met. The plat indicates the Parkway Drive public rights-of-way.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.6</b>	<b>Location, dimension and purpose of all easements, public or private.</b>
			<b>Council Findings</b>	<i>This standard has been met. The plat indicates the public utility, public access, scenic, fisherman's access &amp; nature study easements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.7</b>	<b>The blocks numbered consecutively throughout each block.</b>
			<b>Council Findings</b>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.8</b>	<b>The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.</b>
			<b>Council Findings</b>	<i>Right of Way dedication is labeled with dimensions and total square feet.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.9</b>	<b>The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.</b>
			<b>Council Findings</b>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.10</b>	<b>Scale, north arrow and date.</b>
			<b>Council Findings</b>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.11</b>	<b>Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision</b>
			<b>Council Findings</b>	<i>This standard has been met. Parkway Drive is indicated on the subdivision plat.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.K.12</b>	<b>A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.</b>
			<b>Council Findings</b>	<i>This standard is not applicable.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.13</b>	<b>Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.</b>
			<b>Council Findings</b>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include the surveyor's certification.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.14</b>	<b>A current title report of all property contained within the plat.</b>
			<b>Council Findings</b>	<i>This standard has been met. A title report was submitted for the properties.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.15</b>	<b>Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.</b>
			<b>Council Findings</b>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include a certificate of ownership and associated acknowledgement from all owners and holders of security interest with regard to the subject property, which shall be signed</i>

				<i>following Ketchum City Council review and approval of the application and prior to recordation of the Final Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.16</b>	<b>Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.</b>
			<b>Council Findings</b>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include the certification and signature of the surveyor verifying that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.17</b>	<b>Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.</b>
			<b>Council Findings</b>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include the City Engineer's approval and verification that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.K.18</b>	<b>Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.</b>
			<b>Council Findings</b>	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The signature block page shall include the certification and signature of the City Clerk verifying the subdivision has been approved by City Council.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.K.19</b>	<b>Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.</b>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.L</b>	<b>Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.</b>
			<b>Council Findings</b>	<i>This standard has been met.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.A</b>	<b>Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city.</b>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.B</b>	<b>Improvement Plans: Prior to approval of final plat by the Council, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.</b>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.C</b>	<b>Performance Bond: Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather, factors beyond the control of the subdivider, or other conditions as determined acceptable at the sole discretion of the city, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be two years or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</b>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.D</b></p> <p>As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<p><b>Council Findings</b></p> <p><i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.E</b></p> <p>Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
			<p><b>Council Findings</b></p> <p><i>The applicant shall meet the required monumentation standards prior to recordation of the Final Plat.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.F</b></p> <p>Lot Requirements:</p> <ol style="list-style-type: none"> <li>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</li> <li>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following: <ol style="list-style-type: none"> <li>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</li> <li>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</li> </ol> </li> <li>3. Corner lots outside of the original Ketchum Townsite shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</li> <li>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</li> <li>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</li> <li>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat. Minimum lot sizes in all cases shall be reversed frontage lot(s).</li> </ol>

			<b>Council Findings</b>	<i>Standard #1-6 have been met. Lot 1B complies with the dimensional standards required for lots within the LR Zone. As a portion of the lot is within the floodplain, a building envelope has been shown on the plat as per Standard #2.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.G</b>	<p><b>G. Block Requirements:</b> The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</li> <li>4. Except in the original Ketchum Townsite, corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</li> </ol>
			<b>Council Findings</b>	<i>This application does not create a new block. This requirement is not applicable.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.H</b>	<p><b>Street Improvement Requirements:</b></p> <ol style="list-style-type: none"> <li>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</li> <li>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</li> <li>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</li> <li>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</li> <li>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</li> <li>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</li> <li>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</li> <li>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</li> <li>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</li> <li>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</li> <li>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</li> <li>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</li> </ol>

				<p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the County Assessor's office before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting shall be required consistent with adopted city standards and where designated shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the Council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section and chapter 12.04 of this code;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the Administrator and shall be consistent with the type and design of existing street signs elsewhere in the City;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters shall be required consistent with adopted city standards and where designated shall be a required improvement installed by the subdivider;</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights-of-way unless approved by the City Council; and</p> <p>24. No new public or private streets or flag lots associated with a proposed subdivision (land, planned unit development, townhouse, condominium) are permitted to be developed on parcels within the Avalanche Zone.</p>
			<b>Council Findings</b>	<i>This standard is not applicable. This proposal does not create new street, private road, or bridge.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be permitted only within the original Ketchum Townsite and only after due consideration of the interests of the owners of property adjacent to the dead-end alley including, but not limited to, the provision of fire protection, snow removal and trash collection services to such properties. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right-of-way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the City Engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p>

			<p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the Council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the Council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the City.</p>
		<b>Council Findings</b>	<i>Standard #1 has been met. The plat indicates the required utility easement. Standards #2-4 have been met. The plat indicates the required 10' fish and nature study easement and 25' scenic easement. Standards #5-6 are not applicable.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.K</b> Sanitary Sewage Disposal Improvements: Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the City Engineer, Council and Idaho Health Department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho Department of Health and the Council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the Council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
		<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.L</b> Water System Improvements: A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the City under the supervision of the Ketchum Fire Department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the Municipal water system and shall meet the standards of the following agencies: Idaho Department of Public Health, Idaho Survey and Rating Bureau, District Sanitarian, Idaho State Public Utilities Commission, Idaho Department of Reclamation, and all requirements of the City.</p>
		<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>16.04.040.M</b> Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.</p>
		<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.N	<p><b>Cuts, Fills, And Grading Improvements:</b> Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or Council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> <li>e. Location of all street and utility improvements including driveways to building envelopes.</li> <li>f. Any other information which may reasonably be required by the Administrator, commission or Council to adequately review the affect of the proposed improvements.</li> </ol> </li> <li>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</li> <li>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</li> <li>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</li> <li>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply: <ol style="list-style-type: none"> <li>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</li> <li>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American Standard Testing Methods).</li> <li>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</li> <li>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</li> <li>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</li> </ol> </li> </ol>
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.O	<p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the City on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>

			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.P</b>	<b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.Q</b>	<b>Off Site Improvements:</b> Where the off site impact of a proposed subdivision is found by the commission or Council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.R</b>	<b>Avalanche And Mountain Overlay:</b> All improvements and plats (land, planned unit development, townhouse, condominium) created pursuant to this chapter shall comply with City of Ketchum Avalanche Zone District and Mountain Overlay Zoning District requirements as set forth in Title 17 of this Code.
			<b>Council Findings</b>	<i>This standard is not applicable as the property is not located in the Avalanche or Mountain Overlay.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.S</b>	<b>Existing natural features</b> which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<b>Council Findings</b>	<i>This standard is not applicable as this application dedicates a portion of Lot 1A of Smiles Subdivision to the City of Ketchum for Right of Way to create amended Lot 1B.</i>



### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum City Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which city ordinances govern the applicant’s application for the development and use of the project site.
2. The Council has authority to hear the applicant’s Lot Line Shift Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided adequate notice for the review of this application.
4. The Lot Line Shift (Readjustment of Lot Lines) application is governed under Sections 16.04.010, 16.04.020, 16.04.030, and 16.04.060 of Ketchum Municipal Code Chapter 16.04.
5. As conditioned, the proposed Lot Line Shift meets the standards for approval under Title 16 of Ketchum Municipal Code.

### DECISION

**THEREFORE**, the Ketchum City Council **approves** the Lot 1B, Block 1, Smiles Subdivision Lot Line Shift Application this Thursday, November 18<sup>th</sup>, 2021 subject to the following conditions:

### CONDITIONS OF APPROVAL

1. The amended plat mylar shall meet all conditions specified in Table 1: Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements.
2. The amended subdivision plat shall meet all governing ordinances, requirements, and regulations of the Fire Department (2012 International Fire Code and local Fire Protection Ordinance No. 1125), Building Department (2012 International Building Code, the 2012 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.
3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map.
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder’s office concurrent with the recording of the Plat containing the following minimum data:
  - a. Line work delineating all parcels and roadways on a CAD layer/level designated as “parcel”;
  - b. Line work delineating all roadway centerlines on a CAD layer/level designated as “road”; and,
  - c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as “control”; and,
  - d. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a “.dwg”, “.dgn” or “.shp” format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.

5. The Final Plat mylar shall contain all items required under Title 50, Chapter 13, Idaho Code as well as all items required pursuant to KMC §16.04.030J including certificates and signatures.
6. The applicant shall provide a copy of the recorded Final Plat to the Planning and Building Department for the official file on the application.

Findings of Fact **adopted** this 18<sup>th</sup> day of November 2021

---

Neil Bradshaw, Mayor

---

Tara Fenwick, City Clerk



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Recommendation To Approve Ordinance 1227 Amending KMC Section 15.20, Green Building Codes to include new Section 15.20.060, Electric Vehicle Charging Infrastructure, requiring at least one 240-volt dedicated branch circuit that may be used for electric vehicle charging in new construction of one- and two-family dwellings and townhouses.**

### Recommendation and Summary

Staff is recommending the Council review and approve third reading of Ordinance 1227 and adopt the following motion:

**"I move to approve the third reading of Ordinance 1227 and read by title only by the City Clerk."**

The reasons for the recommendation are as follows:

- Consistent with the 2020 Ketchum Sustainability Plan, the proposed ordinance furthers the goal of reducing carbon emissions from vehicles.
- The proposed ordinance implements a requirement being considered by other jurisdictions in the Wood River Valley.
- The proposed ordinance requires installation of infrastructure to support future EV charging equipment as part of construction instead of more costly installation after construction is completed.

### Introduction and History

Ketchum has had green building standards in place since 2012. Ketchum Municipal Code (KMC) Chapter 15.20 establishes green building standards for new construction, additions, and remodels. The proposed ordinance adds a new section requiring installation of at least one 240-volt branch circuit terminating at a receptacle that may be used for electric vehicle charging equipment. The requirement applies to new construction of one- and two-family dwellings and townhouses.

### Analysis

The proposed requirement is consistent with the standard adopted by the City of Boise and the standard under consideration by other jurisdictions in the Wood River Valley. By requiring the installation of the 240-volt receptacle as part of new construction, it is incorporated into a project at the construction phase instead of retrofitting at a later date. This is a proactive approach facilitates installation of future EV charging equipment.

### Sustainability

This ordinance is consistent with the 2020 Ketchum Sustainability Plan.

Financial Impact

There are no fiscal impacts to the city related to the adoption of this ordinance.

Attachments:

- A. Proposed Ordinance 1227
- B. Proposed Publication Summary of Ordinance 1227
- C. Red-lined version of Chapter 15.20

**ORDINANCE NO 1227**

**AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING TITLE 15 OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 15.20, GREEN BUILDING CODES TO ADD SECTION 15.20.060 REQUIRING ELECTRIC CHARGING INFRASTRUCTURE TO BE INSTALLED IN NEW CONSTRUCTION OF ONE- AND TWO-FAMILY DWELLINGS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Ketchum is authorized to amend the city municipal code; and

WHEREAS, Title 15.20, contains the city's Green Building Codes; and

WHEREAS, the proposed code amendment will provide future owners the ability to install electric vehicle charging infrastructure without significant expense; and

WHEREAS, Ketchum has adopted the 2020 Ketchum Sustainability Plan that identifies a Priority 1 General Action of supporting the adoption and enforcement of building coded related to sustainability; and

WHEREAS, the City Council, having determined the amendment is considered the recommendation of the Planning and Zoning Commission and any comments from the public at a public hearing on October 4, 2021, having determined that it is in the best interests of the public to adopt the proposed amendment to Title 17:

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KETCHUM:**

**Section 1: INSERT SECTION 15.20.060, ELECTRIC VEHICLE CHARGING INFRASTRUCTURE INTO CHAPTER 15.20:**

15.20.060 Electric Vehicle Charging Infrastructure

Vehicle parking constructed in combination with one- and two-family dwellings and townhouses in new construction, require at least one two hundred forty (240) volt, forty (40) ampere dedicated branch circuit terminating at a receptacle or electric vehicle supply equipment, to be provided that may be used for electric vehicle charging, located in close proximity to the parking spaces. The branch circuit shall be identified as "EV Ready" in the service panel or subpanel directory and the termination at the receptacle location shall be marked as "EV Ready". Only one vehicle garage per parcel requires an "EV Ready" receptacle or electrical vehicle supply equipment. Installation shall comply with applicable provisions of the National Electrical Code.

**Section 2: RENUMBER SECTION 15.20.060, CRIMINAL VIOLATION; PENALTY; CIVIL ENFORCEMENT TO SECTION 15.20.070 AND RENUMBER SECTION 15.20.070, APPEALS TO SECTION 15.20.080.**

**Section 3. REPEALER CLAUSE.** All City of Ketchum Ordinances or parts thereof which are in conflict herewith are hereby repealed.

**Section 4. SAVINGS AND SEVERABILITY CLAUSE.** It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 5. PUBLICATION.** This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form attached hereto as Exhibit A, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**Section 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED by the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho on this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

APPROVED:

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
Tara Fenwick, City Clerk

**ORDINANCE NO. 1227**

**AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING TITLE 15 OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 15.20, GREEN BUILDING CODES TO ADD SECTION 15.20.060 REQUIRING ELECTIC CHARING INFRASTRUCTURE TO BE INSTALLED IN NEW CONSTRUCTION OF ONE- AND TWO-FAMILY DWELLINGS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING AN EFFECTIVE DATE.**

A summary of the principal provisions of Ordinance No. 1227 of the City of Ketchum, Blaine County, Idaho, adopted on \_\_\_\_\_2021, is as follows:

**SECTION 1.** Amends Section 15.20, Green Building Codes by adding a new Section 15.20.060, Electric Vehicle Charging Infrastructure:

Vehicle parking constructed in combination with one- and two-family dwellings and townhouses in new construction, require at least one two hundred forty (240) volt, forty (40) ampere dedicated branch circuit terminating at a receptacle or electric vehicle supply equipment, to be provided that may be used for electric vehicle charging, located in close proximity to the parking spaces. The branch circuit shall be identified as "EV Ready" in the service panel or subpanel directory and the termination at the receptacle location shall be marked as "EV Ready". Only one vehicle garage per parcel requires an "EV Ready" receptacle or electrical vehicle supply equipment. Installation shall comply with applicable provisions of the National Electrical Code.

**SECTION 2:** Renumbers Section 15.20.060 to Section 15.20.070 and renumbers Section 15.20.070 to Section 15.20.080.

**SECTION 3.** Provides a repealer clause

**SECTION 4.** Provides a savings and severability clause.

**SECTION 5.** Provides for publication of this Ordinance by Summary.

**SECTION 6.** Establishes an effective date.

The full text of this Ordinance is available at the City Clerk's Office, Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho 83340 and will be provided to any citizen upon personal request during normal office hours.

ATTEST:

APPROVED:

\_\_\_\_\_  
Tara Fenwick, City Clerk

\_\_\_\_\_  
Neil Bradshaw, Mayor



---

## CHAPTER 15.20 GREEN BUILDING CODES

### 15.20.010 Applicability.

This chapter supplements the other International Code Council codes adopted by the City and is not intended to be used as independent construction regulations or to abridge or supersede safety, health or environmental requirements under other applicable codes or ordinances. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal laws or codes. The provisions of this chapter shall apply to all residential construction and the residential portions of mixed use projects.

### 15.20.20 New residential construction.

The following certification programs shall satisfy the requirements of this Code. Third party verification is required. Additional programs may be approved by the City on a case by case basis if they meet or exceed the requirements of the programs below:

- A. Leadership in energy and environmental design (LEED) silver certification, verified by a LEED green rater; or
- B. National green building standard (NGBS) silver certification, verified by a National Association of Home Builders (NAHB) verifier.

### 15.20.30 Residential additions.

Additions shall meet the requirements of section 15.20.020 of this chapter or the following green building practices shall be implemented:

- A. *Site preservation.*
  - 1. Limits of disturbance shall be shown on plans and fenced on site.
  - 2. All trees to be preserved shall have fencing to protect the root structure.
  - 3. All run off shall be contained on site. Sediment and erosion control measures shall be shown on plans and implemented.
- B. *Resource conservation.*
  - 1. Construction waste recycling: Separate recycling containers shall be provided for cardboard, metal, plastic and clean wood waste.
  - 2. A built in recycling collection space shall be provided in each new or enlarged kitchen, and an aggregation/pick up recycling space shall be provided in a garage, covered outdoor space or other area.
  - 3. A minimum of two resource efficient building products shall be shown on plans and installed:
    - a. Engineered lumber or steel.
    - b. Recycled building products (minimum 50 percent recycled content).
    - c. Indigenous building products (produced within 500 miles).
    - d. Certified wood based products (FSC or SFI).
- C. *Water conservation.*

- 
1. Indoor.
    - a. All plumbing fixtures shall be WaterSense rated or equivalent.
    - b. Water recirculating systems shall be limited to on demand type systems.
  2. *Outdoor.*
    - a. Landscaping irrigation shall meet EPA WaterSense program requirements.
    - b. Turf grass shall be of a drought tolerant species (Rhizomatous tall fescue or equivalent) or limited to 25 percent of the total landscaped portion of the site.
    - c. Seventy-five percent of new trees and shrubs shall be native or listed on the University Of Idaho's list of drought tolerant shrubs and trees.
- D. *Energy conservation.*
1. Meet the requirements of the 2012 International Energy Conservation Code.
  2. All appliances, with exception of range, oven, cooktop and microwave, shall be Energy Star rated.
  3. Hot water heaters shall be Energy Star rated or meet the 2015 National Appliance Energy Conservation Act (NAECA) requirements.
  4. Air conditioning and heating appliances shall be Energy Star rated or minimum 95 percent efficient.
- E. *Indoor air quality.* All paints, primers, stains and adhesives, or flooring shall be low VOC certified per the California air resources board consumer products regulations.

#### **15.20.040 Remodels.**

- A. Construction waste recycling: Separate recycling containers shall be provided for cardboard, metal and clean wood waste.
- B. If the following items are replaced, they shall meet the requirements above for additions:
  1. Light fixtures.
  2. Appliances.
  3. Heating and cooling appliances.
  4. Plumbing fixtures.
  5. Irrigation.

#### **15.20.050 Exterior energy conservation (EEC).**

- A. *Prescriptive path.*
  1. *Pool/spa requirements.*
    - a. Automated cover required for pools;
    - b. Minimum 92 percent efficiency pool heater or Energy Star heat pump;
    - c. Variable speed pumps or equivalent;
    - d. Insulate all pipes to R-10;
    - e. Insulate below grade walls where feasible;

- 
- f. Spa cover: Minimum R-18, tested at 25 degrees Fahrenheit;
  - g. Indoor pools: Building is required to meet 2012 IECC.
2. *Snowmelt requirements.*
- a. Insulate below and perimeter with minimum R-10 structural insulation;
  - b. Minimum 92 percent efficiency boiler or Energy Star heat pump;
  - c. Automated controls capable of shutting off the system when the pavement temperature is above 50 degrees Fahrenheit and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40 degrees Fahrenheit;
  - d. Positive drainage off driveway (use geofabric under pavers).
- B. *Performance path.* Provide engineered, stamped drawings by an engineer licensed in the state of Idaho, showing that the system will perform using 25 percent less energy than a standard, current energy code compliant design.

### **15.20.060 Electric Vehicle Charging Infrastructure**

Vehicle parking constructed in combination with one- and two-family dwellings and townhouses in new construction, require at least one two hundred forty (240) volt, forty (40) ampere dedicated branch circuit terminating at a receptacle or electric vehicle supply equipment, to be provided that may be used for electric vehicle charging, located in close proximity to the parking spaces. The branch circuit shall be identified as "EV Ready" in the service panel or subpanel directory and the termination at the receptacle location shall be marked as "EV Ready". Only one vehicle garage per parcel requires an "EV Ready" receptacle or electrical vehicle supply equipment. Installation shall comply with applicable provisions of the National Electrical Code.

### **15.20.070 ~~060~~ Criminal violation; penalty; civil enforcement.**

- A. Any person, firm, association, or corporation that fails to comply with or violates any of these regulations or adopted codes shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$300.00 or imprisonment for a period not to exceed six months, or both. Each day that said violation continues shall be considered a separate offense.
- B. Appropriate actions and proceedings at law or in equity may be instituted by the City of Ketchum to restrain or abate violations of this chapter or adopted codes, or compel compliance herewith, or to prevent illegal construction or occupancy of any buildings, structures, or premises in violation of this chapter or adopted codes together with appropriate damages therefor. These remedies shall be cumulative and in addition to all other legal remedies and penalties provided by law.

### **15.20.80 ~~070~~ Appeals.**

An appeal of any order, requirement, decision or determination of the Building Inspector or the Planning and Zoning Commission made in the administration or enforcement of this chapter may be taken by any affected person, as that term is defined by Idaho Code section 67-6521, as it may be amended from time to time, or any officer or department of the City, to the City Council by filing a notice of appeal in writing with the Office of the Planning and Zoning Administrator of the City in the manner prescribed in this chapter.

- A. *Action required by the Planning and Zoning Administrator.* The Planning and Zoning Administrator shall certify that all procedural requirements have been satisfied and fees paid and transmit to the Council the original of all papers constituting the record in the case, together with the order, requirement,

---

decision or determination of the inspector or the commission. If applicable, a verbatim transcript of the commission proceedings shall be prepared and transmitted to the Council at the appellant's expense.

- B. *Hearing and notice.* The Council shall, following receipt of the Planning and Zoning Administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to the appellant, the commission, and to any other affected person, as defined in Idaho Code section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code section 67-6501 et seq., as may be amended from time to time.
- C. *Authority of Council.* Upon hearing the appeal, the Council shall consider only matters which were previously considered as evidenced by the record, the order, requirement, decision or determination and the notice of appeal, together with oral presentation and written legal arguments by the appellant, the applicant, if different than the appellant, and the commission and/or staff. The Council shall not consider any new facts or evidence at this point. The Council may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the inspector or commission. Furthermore, the Council may remand the application for further consideration with regard to specific criteria stated by the Council.
- D. *Decision by Council.* The Council shall enter a decision within 30 days after the hearing on appeal, which shall include its written decision separately stated. The Council shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho Code section 67-6521, as that section may be amended from time to time.
- E. *Appeal of Council.* In the event of an appeal of a decision of the Council to district court, applications approved by the City will be processed by the City during the pendency of the appeal.
- F. *Time for filing appeals.* All appeals permitted or authorized by this title shall be taken and made in the manner and within the time limits as follows: The written notice of appeal shall be filed before 5:00 p.m. of the fifteenth calendar day after the order, requirement, decision or determination of the Planning and Zoning Administrator has been made or after findings of fact have been approved by the commission, whichever is applicable. The failure to physically file a notice of appeal with the Planning and Zoning Administrator of the City within the time limits prescribed by this section shall be jurisdictional and shall cause automatic dismissal of such appeal.
- G. *Fee for appeals.* An administrative fee and a fee equal to the expense of giving notice and providing the transcript shall be paid within two days after receipt from the Planning and Zoning Administrator of the amount of the fee. In the event the fee is not paid as required, the appeal shall not be considered filed.
- H. *Notice of appeal; form and contents.* The notice of appeal shall be in writing and in such form as shall be available from the office of the Planning and Zoning Administrator, which shall require to be set forth with specificity all bases for appeal, including the particulars regarding any claimed error or abuse of discretion.



## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Authorize Long-term Solid Waste Franchise Agreement with Clear Creek Disposal (Obras, LLC)**

#### Recommendation and Summary

Staff is recommending the Council conduct a public hearing regarding the approval a ten-year Solid Waste Franchise Agreement with Clear Creek Disposal. Staff will review the following during the meeting: (1) AM collection hours which is unresolved in the proposed new agreement (2.4-d page 7) and (2) feedback regarding recycling station location.

**"I move approval of third reading by number and title of Ordinance 21-1228, a ten-year franchise agreement with Clear Creek Disposal (Obras, LLC)."**

The reasons for the recommendations are as follows:

- City staff has coordinated with Clear Creek, City of Hailey and Blaine County regarding short-term and long-term service enhancements to recycling program.
- The new franchise agreement provides for short-term service enhancements such as a cardboard compacter and provides for future annual service changes (2.4 – page 7)
- A public hearing was conducted for first and second readings. The city published the required public notice in the Mountain Express following first reading and the 30 day period has been met prior to third reading/adoption.

#### Introduction, History & Analysis

The Council approved a series of short-term extensions to allow for due diligence to be completed associated with the long-term franchise agreement. Specifically, staff was waiting to finalized costs associated with the new cardboard compacter located near the YMCA. Following the public hearing, there is a required 30 day notice requirement before final adoption of the franchise agreement.

Staff did complete community outreach with approximately 273 participants. There was strong support (71.1%) to move to a cardboard compacter.

Staff has been working with Clear Creek Disposal to evaluate service enhancements associated with a new Franchise Agreement. This evaluation has been in partnership with the City of Hailey, Blaine County, Southern Idaho Solid Waste District as well as interested non-profit partners such as the Environmental Resource Center, Sun Valley Institute for Resilience and Ketchum Sustainability Advisory Committee.

A waste audit for Blaine County conducted by Warm Springs Consulting which concluded there were two major opportunity areas to explore:

- 23.5% of waste stream consisted organic materials.
- 18.1% included recyclable materials such as cardboard, paper and plastic.

In addition to those opportunities, two other related topics were explored:

- How to reduce the contamination and other negative impacts associated with the community drop off recycling sites.
- How to reduce the occurrence of bears and other animals being attracted to trash containers which in many instances results in euthanizing those animals.

The group evaluated multiple service scenarios and **initially** recommended the following new services:

- Curbside co-mingled recycling versus the current approach where residents must sort their recyclables. National evidence and experience in other western communities have demonstrated with this change it can result in 65%-100% increase of recyclable material. The new service would also allow for the collection of cardboard at the curbside. Customers would receive a new container on wheels. It would be collected every other week.
- Curbside collection of organic materials (food/yard waste). Customers would receive a cart and pickup with occur every other week (off-set with comingled recycling).
- Collection of glass would still occur at drop-off sites.

These recommendations carry logistical/role changes between Blaine County and the Southern Idaho Waste District at the Ohio Gulch Facility. The details were discussed at the recent joint meeting. For Clear Creek Disposal, there would be operational changes as well; ranging from the need to purchase and distribute additional carts as well as new trucks. All of this would result in an increase in monthly costs for customers.

Based on feedback from the Blaine County Commissioners and the City of Hailey, staff is recommending the following **REVISED** course of action:

#### **Short-term**

- Transition current cardboard drop off location from numerous open dumpsters to one compacter system.
- Offer the ability for customers to purchase wildlife proof containers but do not mandate.
- Continue to evaluate potential composting program and recycling enhancements.
- Return to the Council with an updated 10 year franchise agreement that enables annual evaluation/implementation to any future recycling service changes and associated customer charges.

#### **Mid-term (next 1-2 years)**

- Evaluate the concept on a five year phase-in of wildlife carts in all non-downtown locations.
- Based on community feedback, implement future service changes such as composting, curbside cardboard or co-mingled recycling.

#### Sustainability Impact

The Ketchum Sustainability Action Plan list these potential service improvements as items to explore to reduce the amount of solid waste going to the regional landfill.

Financial Impact

Clear Creek has proposed an initial (14%) rate adjustment to address inflation in costs associated with existing service as there has not been a rate adjustment in several years. Clear Creek has developed an initial cost estimate for each associated service enhancement outlined below:

- **Existing monthly rate = \$23.40**
  - 14% cost of service rate increase = \$ 3.28
  - Cardboard drop-off compacter = \$ 1.40
  - Increased cleanup at recycling drop-off = \$ .65
- **New monthly rate = \$28.73**

Attachments:

1. Ordinance 21-1228
2. Franchise Agreement

ORDINANCE NO. 21-1228

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO GRANTING A FRANCHISE FOR SOLID WASTE COLLECTION AND DISPOSAL TO OBRAS, LLC; PROVIDING DEFINITIONS AND AUTHORITY; APPROVING A FRANCHISE AGREEMENT; PROVIDING FOR ACCEPTANCE BY FRANCHISEE; PROVIDING SPECIFIC AND GENERAL CONDITIONS; ESTABLISHING LIMITATIONS; PROVIDING FOR FORFEITURE; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT ALL ORDINANCES AND RESOLUTIONS IN CONFLICT ARE REPEALED AND RESCINDED; AND PROVIDING FOR AN EFFECTIVE DATE.

- A. The City has the powers to promote the general welfare (I.C. §50-302), preserve the public health (I.C. §50-304), and provide for solid waste disposal by franchise (I.C. §50-344).
- B. Ketchum Municipal Code Title 8, Chapter 4 provides for and regulates solid waste collection and disposal within the City, including service by franchise agreement.
- C. For the past ten years, Clear Creek has operated and provided solid waste collection and disposal services within the City pursuant to Ordinance No. 1086 and accompanying Waste Collection Services Agreement, dated May 2, 2011.
- D. The parties desire to continue the franchise and update the terms and provision of solid waste collection and disposal services.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KETCHUM, IDAHO:

**Section 1 - Definitions:** All terms herein this ordinance and accompanying agreement shall be defined as those definitions which are presently codified in the Ketchum Municipal Code, which definitions are incorporated herein by reference.

**Section 2 - Authority for Franchise:** This Franchise Ordinance is an exercise of the City's authority to grant a franchise pursuant to Idaho Code §50-344, §50-329 and pursuant to its authority and regulation as is set forth in Ketchum Municipal Code Title 8, Chapter 4.

**Section 3 - Grant and Term of Franchise:** The City of Ketchum does hereby grant to Obras, LLC, dba Clear Creek Disposal, a franchise of scope and description as set forth under the Franchise Agreement attached as Exhibit A and hereby incorporated.

**Section 4 - Acceptance:** Obras, LLC, shall file a written acceptance of the franchise with the City Clerk within ten days after the date of this ordinance. This franchise shall go into effect only when the acceptance has been filed and when evidence of general comprehensive liability insurance provided shall have been filed and approved.



**Section 5 - Specific Conditions:** The specific conditions of this franchise are set forth in that certain Franchise Agreement as attached as Exhibit A.

**Section 6- General Conditions:** The City of Ketchum reserves the right to enforce reasonable regulations as prescribed by Ketchum Municipal Code Title 8, Chapter 4 over the activities and the grant of this franchise.

**Section 7 - Limitation on Franchise:** No privilege or exemption is granted or conferred by this franchise except those specifically prescribed in this ordinance. Any privilege claimed under the franchise in any street, alley, or other public place shall be subordinate to any lawful occupancy of any such street, alley, or other public place by grantor or by any other public agency, and to prior lawful occupancy of any such street, alley, or other public place by any other entity or person.

**Section 8 - Forfeiture:** The franchise may be forfeited, at the option of the City of Ketchum, upon failure or refusal by Franchisee to observe the terms and conditions set forth in this ordinance or prescribed in the Franchise Agreement. Forfeiture may be exercised by written notice to Franchisee of failure to observe the terms and conditions of this ordinance, followed by grantee's refusal to eliminate or correct the failure or violation within 30 days. In the event of any failure of violation, the City may sue in its own name in the manner provided by law for the forfeiture of the franchise without the necessity of resorting to procedures in quo warranto. The exercise of the remedy of forfeiture shall not preclude exercise of any other right or remedy given to grantor by law, whether exercised concurrently or subsequently.

**Section 9 - Effect of Invalidity:** The franchise is granted pursuant to the laws of the State of Idaho relating to the granting of such rights and privileges by the City of Ketchum. If any article, section, sentence, clause, or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional, the invalidity shall not affect the validity of the ordinance or any of the remaining portions. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of grantee.

**Section 12:** All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

**Section 13:** This ordinance, in accordance with the provisions of Idaho Code § 50-329, was approved for the first reading more than 30 days prior to its approval, been published in the *Western* official newspaper on the \_\_\_ day of \_\_\_\_\_, 2021, and shall take effect after its passage and publication.

PASSED BY the CITY COUNCIL of Ketchum, Idaho, on this \_\_\_ day of \_\_\_\_\_ 2021.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this \_\_\_ day of \_\_\_\_\_ 2021.

APPROVED:

\_\_\_\_\_  
Neil Bradshaw  
Mayor

ATTEST:

\_\_\_\_\_  
Tara Fenwick, City Clerk

**FRANCHISE AGREEMENT TO PERFORM  
SOLID WASTE COLLECTION AND DISPOSAL SERVICES**

**PARTIES:**

City of Ketchum	CITY	PO Box 2315 Ketchum, ID 83340
Obras, LLC dba Clear Creek Disposal	CLEAR CREEK or FRANCHISEE	PO Box 130 Ketchum, ID 83340

THIS FRANCHISE AGREEMENT (“Agreement”), is made and entered effective to \_\_\_\_\_, 2021 between City of Ketchum, a municipal corporation of the State of Idaho (“City”), and Obras, LLC dba Clear Creek Disposal, an Idaho limited liability company (“Clear Creek” or “Franchisee”), for the purpose of providing solid waste collection and disposal service within the City of Ketchum.

**RECITALS**

- A. The City has the powers to promote the general welfare (I.C. §50-302), preserve the public health (I.C. §50-304), and provide for solid waste disposal by franchise (I.C. §50-344).
- B. Ketchum Municipal Code Title 8, Chapter 4 provides for and regulates solid waste collection and disposal within the City, including service by franchise agreement.
- C. For the past ten years, Clear Creek has operated and provided solid waste collection and disposal services within the City pursuant to Ordinance No. 1086 and accompanying Waste Collection Services Agreement, dated May 2, 2011.
- D. The parties desire to continue the franchise for an additional ten years and update the terms and provision of solid waste collection and disposal services.

**1. GENERAL TERMS**

**11 Definitions.** For the purposes of this Agreement, all terms, phrases and words shall have the meaning given herein. Other terms, phrases and words used but not defined below shall have the meaning given in Ketchum Municipal Code 8.04.020 or other applicable sections of Ketchum Municipal Code. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

**BIN:** A container used to separate and set out recyclable materials for collection by Franchisee.

**COLLECTION:** The picking up and dumping of any and all sizes of containers without respect to the volume of material actually in the container. Thus, a one cubic yard container picked up and dumped once constitutes one cubic yard collected and, likewise, an eight cubic yard container picked up and dumped once constitutes eight cubic yards collected.

**COMMERCIAL UNIT:** All premises or locations, public or private, requiring solid waste collection within the corporate limits of the City which are not a Residential Unit, provided, however, that where there is less than three (3) separate single-family dwelling residential units mixed with light industrial or commercial units such units shall be considered a Commercial Unit. Commercial Unit does not include premises or locations owned by the State or Federal government unless the State or Federal government requests that the services be provided to such premises or locations.

**COMPACTOR(S):** A mechanical unit(s) that forces material into a dumpster under pressure to increase the density of the material. The compaction unit is stationary with the dumpster removed for disposal.

**CONTAINER:** A leak proof object with a lid, smaller than one cubic yard, designed to hold solid waste and recyclables.

**DISPOSAL SITE:** For acceptable waste and recyclable material, the Blaine County Transfer Station in Ohio Gulch or any other such approved transfer station, landfill or recycling facility designated by the Blaine County Board of County Commissioners.

**DUMPSTER:** A painted metal, leak proof device with a lid, one cubic yard or larger, designed to hold solid waste or recyclables.

**HAZARDOUS WASTE:** Waste which is defined in Idaho Code §39-4403.

**ITEMS EXCLUDED FROM CITY COLLECTION:** Solid waste including bulky waste, dirt or earth debris from construction or lawn renovation, stable matter, rocks, stones, automobile bodies and parts, dead animals or animal carcasses, construction debris and sewage that are excluded from Franchisee's obligation to collect solid waste. The City does not require Franchisee to collect or transport hazardous materials; however, the City is not responsible for determining when customers have left hazardous materials for collection or transportation. The items excluded from City collection must be collected and transported over and upon the public ways within the City by the owner or occupant of the premises. The Franchisee may provide for a special collection of these excluded items if requested by the owner or occupant at a negotiated rate and billed by the Franchisee.

**PRODUCER:** The owner or occupant of a Commercial Unit who generates solid waste or recyclable materials.

**RECYCLABLE MATERIALS:** Products or substances designated by the City and/or the Southern Idaho Solid Waste District as capable of being reprocessed into consumer or usable materials, including but not limited to paper, newsprint, magazines, aluminum, tin, cardboard, metal or plastic, which have been segregated from other solid waste for collection.

**REFUSE:** All putrescible and non-putrescible solid or liquid wastes, except sewage, whether combustible or non-combustible and whether required to be segregated pursuant to the solid waste disposal regulations of the City's designated landfill, including garbage and rubbish.

**RESIDENTIAL UNIT:** All structures and shelters occupied by a person or group of persons or household within the corporate limits of the City. A residential unit shall be deemed occupied when water, wastewater, or electrical services are being supplied. A condominium dwelling, consisting of three (3) or more continuous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit may be billed separately as a residential unit, or a rate negotiated by a condominium association and the Franchisee. Each separate rental unit, in the case of a multi-family dwelling, shall be considered a residential unit and billed separately.

**RUBBISH:** All waste and refuse such as newspapers, magazines, wrapping and other paper products, packing cases and materials such as straw, shavings, excelsior, sawdust, and discarded clothing, metals, food containers, bottles, broken glass, ashes, lawn and tree trimming, cuttings, weeds and leaves.

**SERVICE AREA:** The incorporated areas of the City of Ketchum, including all property owned by the City.

**SEWAGE:** Water-carried wastes from residences, commercial or industrial establishments, business buildings and other premises, containing polluted matter subject to treatment at the sewage treatment plant.

**SOLID RESIDENTIAL WASTE:** Ashes, garbage, recyclable materials, refuse or rubbish that is placed in a Cart provided by the Franchisee and yard waste that is properly bundled or sacked and that is associated with and generated by a Residential Unit. Solid Residential Waste does not include Items Excluded from City Collection, as defined herein.

**SOLID WASTE:** All materials included within the definition of Solid Waste in Idaho Code § 39-7403, excluding Hazardous Waste.

**TRASH:** Solid matter of animal, vegetable, metal or other materials discarded for landfilling, including bulky waste, construction and demolition waste, dead animals weighing ten (10) pounds or less, and stable matter. Excludes materials which have been properly set aside for recycling, hazardous materials, medical waste, and dead animals weighing over ten (10) pounds.

**YARD WASTE:** Includes tree trunks, large limbs, tree trimmings, shrubs, brush, grass and lawn clippings, weeds and leaves that are properly sacked or bundled. Tree trunks and large limbs shall not exceed three (3) feet in length and forty (40) pounds in weight per securely bound bundle. Shrubs and brush must be bundled not to exceed three (3) feet in

length and not exceed forty (40) pounds per bundle and securely tied. Grass and lawn clippings, weeds and leaves must be properly sacked in tear resistant sacks and weigh less than forty (40) pounds per sack.

**12 Grant of Non-Exclusive Franchise.**

The City grants to Clear Creek, and to its successors and assigns, a non-exclusive franchise to engage in the business of collecting, transporting, processing and disposing of solid waste kept or accumulated and placed for collection by residential or commercial units within the corporate limits of the City.

The franchise granted pursuant to this Agreement shall be non-exclusive and shall not preclude the City from granting other or further franchises or permits. The franchise granted shall not preclude the City from using any public way or affect its jurisdiction over them or any part of them, or limit the full power of the City to make such changes, as the City shall reasonably deem necessary, including but not limited to, the dedication, establishment, maintenance, and improvement of all new public ways.

**13 Term.** The term of this Agreement shall be for ten years, beginning October 1, 2021 and ending at midnight on September 30, 2031. This Agreement may be extended for an additional ten-year term subject to terms and conditions mutually agreed upon in writing between the parties. Any further extension or renewal shall be by written amendment or further written agreement between the parties.

**14 Annexation.** In the event that the City annexes additional areas of the County during the term of the Agreement, the existing County's Franchisee shall retain exclusive right to collect solid waste within the newly annexed area for a period of up to one (1) year after the annexation takes effect. Provided, however, if the annexation occurs prior to any development occurring in the area or in an area in which no service has previously been provided by County's Franchisee or there is no County Franchisee, exclusive right under this Agreement to collect solid waste shall be extended to Franchisee upon the effective date of annexation.

**15 Default.**

**A. Default and Cure.** If Franchisee violates or fails to comply with any material provision of this Franchise, the City shall give written notice to Franchisee of the alleged non-compliance of the Franchise. Franchisee shall have thirty (30) days or such lesser time if reasonably deemed an emergency by the City, from the date of notice of non-compliance to cure such alleged default.

**B. Termination for Default.** If such default continues beyond the applicable dates agreed to for such cure, the City shall provide Franchisee written notice by certified mail that all rights conferred under this Agreement and the Ordinance granting such Franchise may be revoked or terminated by the City Council at a hearing on the matter. Franchisee shall be entitled to not less than five (5) days' prior notice of the date, time and place of the hearing. The City may elect, in lieu of the above and without prejudice to

any of its other legal rights and remedies, to obtain an order from the district court having jurisdiction compelling Franchisee to comply with the provisions of the Franchise and recover damages and costs incurred by the City by reason of Franchisee's failure to comply.

**16 Liquidated Damages.** In view of the difficulty of ascertaining a loss which the City will suffer by reason of breach in the performance of the requirements stated in this Agreement, the City may assess liquidated damages in the amount of One Thousand Dollars (\$1,000) per day for discontinuance of collection and transportation service on any route for more than seventy-two (72) hours beyond the scheduled day, after written notice, for any reason, except for causes beyond the control of Franchisee and except for situations covered herein this Agreement.

## **2. DUTIES OF THE FRANCHISEE.**

**21 FRANCHISEE ASSURANCES.** Franchisee is an independent contractor and all payments to workers and subcontractors are the responsibility of Franchisee. In no event is the City a guarantor of any claim or demand or judgment against Franchisee for wages or other payments.

### **22 SCOPE OF SERVICES.**

#### **A. Residential Service.**

1. *Mandatory Collection.* No property owner of a Residential Unit within the City shall be permitted to refuse to accept the Solid Residential Waste collection and transportation service, including Recyclable Materials, provided by the Franchisee. and the failure of any property owner to receive such service shall not exempt such property owner from payment of charges. No property owner of such Residential Unit within the City shall be permitted to use any other hauler that has not been given a Residential Franchise by the City.

2. *Unlimited Weekly Collection.* Residential service shall consist of weekly collection of unlimited trash and Recyclable Materials properly set out by the customer in approved containers on the designated collection day. All Solid Residential Waste shall be placed in cans or carts, and Yard Waste shall be transferred to the Blaine County landfill or other City-approved location. All Recyclable Materials and other Solid Residential Waste, placed in the applicable containers, or properly sacked or bundled, shall be placed on the sidewalk, street or alley edge for pickup on certain days to be established by Franchisee and approved by the City. If, for any reason (such as overweight, not properly sacked or bundled, contaminated Recyclable Materials, etc.) the contents of a container are not picked up, Franchisee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

3. *Recycling Service.* Franchisee shall collect Recyclable Materials that are properly segregated from other solid waste according to the specifications and procedures established by the Blaine County Recycle Center separately from trash, on the same day

and at the same location, whether curbside, alley, or carry-out, in Franchisee supplied bins. Franchisee shall distribute one bin to each customer with residential service. Bins shall remain the property of the Franchisee. Franchisee shall transport all such segregated Recyclable Materials to a City-approved recycling center to facilitate the reprocessing of such materials into consumer materials.

4. *Availability of Service.* Franchisee shall not refuse to provide residential service to any customer who complies with the terms of this Agreement and all relevant statutes, ordinances, and regulations. Franchisee may refuse to provide residential service to any customer who fails to follow proper setout procedures and to use approved containers, or to any customer whose account is delinquent for a period of three (3) consecutive months, unless otherwise directed by the Ketchum City Administrator.

**B. Commercial Service.**

1. *Voluntary Service.* Commercial service shall be voluntary. Commercial service within the service area shall be provided solely by the City's Franchisee. Franchisee shall collect and transport all Solid Waste from all Commercial Units where the owners of such units choose to use the collection and transportation system, provided such Solid Waste is put in receptacles approved by Franchisee and placed in locations on private property acceptable to Franchisee or placed in locations within the public way approved by the City. An owner may transport Solid Waste which such person produces directly to an authorized Disposal Site. The Solid Waste produced by the tenant, licensee, occupant or person other than the owner of the leased, occupied or licensed premises may be considered produced by the owner; provided, however, that owners or groups of owners may not join for the purpose of commercially transporting Solid Waste from properties of differing ownership.

2. *Trash Collection.* Commercial service shall consist of trash collection in customer-owned or Franchisee-supplied containers or dumpsters.

3. *Recycling Service.* All Recyclable Materials may be segregated from other Solid Waste by placing said Recyclable Materials into separate containers. Franchisee shall transport all such segregated Recyclable Materials to the Disposal Site or a City approved recycling center to facilitate the reprocessing of said materials into consumer materials.

**C. Service Enhancements.** The parties have discussed potential service enhancements, including, but not limited to, enhanced recycling services and diversion of organic waste for potential composting. City may, once per calendar year, notice to Clear Creek and provide for incorporation of one such type of service enhancement into this Scope of Services with accompanying reasonable adjustment to rates and fees.

**23 SPECIAL COLLECTION.** The Franchisee may provide for the special collection from Commercial and Residential Units of Items Excluded from City Collection, if requested and paid for by the customer. Franchisee shall be responsible for obtaining appropriate disposal facilities for any waste Franchisee hauls which is not accepted at the Blaine County Landfill.



## 24 ROUTES AND COLLECTION SERVICES.

A. **Routes and Times of Collection.** Franchisee shall conduct a City-wide collection of Solid Waste, including Recyclable Materials, at least once each calendar week, or more often if requested and paid for by the customer, on a Monday through Friday basis, except for any Saturday commercial collections which may be negotiated and agreed to by the commercial customer and the Franchisee. For purposes of such collections, Franchisee may divide the City into collection districts, or routes, and provide for different days of collection in each of the districts. Such collection of districts, or routes, shall be approved by the City Council. Upon approval of the proposed routes by the City Council, Franchisee shall prepare route books for each district as soon as possible, which shall indicate the address of each service. Franchisee shall keep route books up to date at all times. Franchisee shall give reasonable notice to the general public as to the days and times for collection in each district. No changes in collection schedules shall be made without reasonable notice thereof to the customers serviced by Franchisee.

B. **Extension of Service.** In the event the City annexes additional areas during the term of the Franchise, Franchisee's right to collect Solid Waste, including Recyclable Materials, within the City shall extend to any part of the newly annexed areas. Franchisee shall hire additional personnel and obtain additional equipment to service said new areas when required and necessary.

C. **Regular Collections.** Regular collections shall be made at the times so scheduled; provided, however, that no regular or other collection shall be made upon any Sunday excepting collections of Solid Residential Waste that Franchisee should have collected but failed to collect at a regularly scheduled time.

D. **Time of Collections.** Franchisee shall make no collections in residential areas, or at schools, churches, shopping areas or commercial areas adjacent to residential areas, prior to [6:00 or 7:00 a.m.], or after 9:00 p.m. The City Council shall have authority to change the time of collection as required by the needs of the public and the Franchisee.

**25 PERSONNEL AND EQUIPMENT.** Franchisee shall furnish, during the period of this Agreement, a sufficient number of persons, trucks and equipment to collect and dispose of solid waste contracted for collection in the City. Said equipment shall be maintained and operated in a clean and sanitary condition at the expense of the Franchisee.

A. **Personnel Requirements.** All necessary personnel shall be furnished by Franchisee. All people engaged by Franchisee and coming into contact with members of the public must perform their work in a workmanlike and industrious manner.

B. **Equipment.**

1. *Scope of Equipment.* Franchisee shall provide sufficient serviceable and well maintained vehicles, equipment and devices, whether new or used, appropriate to the geographic size and population density of the City and complimentary to the levels of

service set forth herein and/or as may be subsequently determined by the City Council to assure complete, regular collection, transportation and removal from the City of all Solid Waste under the conditions as defined in this Agreement.

2. *Quantity of Equipment; Inventory.* For service requirements, Franchisee must have a minimum of two (2) twenty-five cubic yard automated compactor truck units and have at least one (1) stand-by unit for emergencies caused by breakdowns or unforeseen additional solid waste. The quantity of equipment to be provided by Franchisee may be amended from time to time by the City Council in order to protect the health, safety and welfare of its citizens. Franchisee shall maintain an inventory of equipment, showing each vehicle (type, capacity, approximate age) used in performing the Agreement. Franchisee may change equipment from time to time and shall revise the inventory accordingly. Franchisee shall maintain a vehicular fleet which will at all times be adequate to perform the responsibilities of this Agreement.

3. *Vehicle Specifications.* Franchisee shall furnish specially designed vehicles with watertight metal bodies and suitable covers of approved type for the collection and hauling of solid waste. The equipment shall be clean, uniformly painted and clearly marked for its volume capacity and identified for use pursuant to this Agreement and equipped with warning devices, subject to review and approval by the City. All vehicles will be licensed, in good running order, lighted and safety inspected for highway operations, as required by State law. The City shall not assume or bear any liability for any safety inspection or review of the Franchisee's equipment and vehicles provided for under this Agreement.

4. *Age/Condition of Collection Equipment.* Throughout the term of this Agreement, no collection equipment shall be over ten (10) years old. Collection equipment less than ten (10) years old shall be kept in good operating condition or be replaced.

5. *Equipment Garaging and Maintenance.* Franchisee shall maintain heated garaging for all collection equipment and maintenance facilities for all collection equipment in a condition and within Blaine County acceptable to the City Council insofar as zoning, traffic, home parking and nuisance considerations are concerned. Franchisee shall institute a complete and comprehensive system of preventative maintenance on all vehicles. Trucks shall be repainted if appearance warrants, and as may be directed by the City Council.

6. *Litter; Noise.* Franchisee shall not litter any premises or public property in making collections of Solid Waste; however, if in spite of normal precautions against spillage, litter is made on any premises or public property, Franchisee shall immediately remove the same and clean up the area of spillage. Franchisee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. Franchisee shall utilize equipment available to minimize noise and shall incorporate noise control features in equipment used by collectors as may be directed by the City Council.

7. *Inspection and Sanitation Requirements.* Franchisee shall annually provide City with a certification of Franchisee's collection vehicles, including compliance with federal regulations and standards, as may be amended from time to time. In addition, Franchisee's collection vehicles shall be operated in full compliance with Idaho Code. Vehicles shall be thoroughly washed and disinfected inside the collection body, and the outside of each vehicle shall be cleaned and washed on a weekly basis.

**C. Containers.**

1. *Container Service.* Franchisee shall have approved crates, carts and detachable or stationary compactor containers available for all Residential and Commercial Units on a rental basis. The carts and containers shall have plastic or metal lids, where warranted for bear proofing. Franchisee shall be responsible for the general repair, appearance and upkeep of all such carts and containers.

2. *Dumpster or Container Enclosures.* Franchisee shall review all commercial and industrial proposed dumpster or container enclosures or screenings within five (5) business days of receiving a proposal from the City's Planning and Zoning Department and provide the City with input on the type and location of the enclosure and how it will facilitate solid waste collection. All dumpster or containers shall be returned to the enclosure and Franchisee shall immediately notify the City if the dumpster or container is not within the enclosure at the time of pickup or if Franchisee, for some reason beyond its control, is unable to replace the dumpster or container within the enclosure.

**26 COLLECTION PROCEDURES.**

A. **Accessibility.** This Agreement shall grant to the Franchisee the right of ingress and egress, to cross all public streets, alleys and rights-of-way in the City. Collections shall be made on the streets and rights-of-way of the City in a manner of least delay and inconvenience to the public. Franchisee shall use backways and alleys where operationally feasible. It shall be unlawful for any person to deny reasonable access to the Franchisee to collect waste from any Residential Unit or Commercial Unit.

B. **Responsibilities of Collection Personnel.** Franchisee shall hire competent and skilled workers. Collection personnel shall follow the traveled portion of streets, alleys and roadways, or the regular walks for pedestrians while on private property, and shall take care in loading of such waste so that none of the material to be collected is left upon the private property or the streets, alleys or roadways. Collection personnel shall return the containers with all properly prepared and legal contents removed and replace lids thereon. Franchisee shall not place in any street or alley, in carrying out this Agreement, any obstructions to traffic.

C. **Hazardous Materials.** Franchisee shall not be required to collect and transport hazardous materials. If such materials are collected, disposal shall take place only under supervision or as required by an appropriate public health official. Franchisee shall not knowingly dispose of hazardous materials at the Blaine County Landfill, without appropriate notice to and approval by the City and compliance with all federal, state and local laws and regulations.

D. **Disposal Site.** Franchisee shall haul all legally acceptable solid waste collected in the service area to the Blaine County Landfill or the City's designated disposal site, or an approved recycling facility. Upon request, Franchisee's driver shall fully disclose the contents of the vehicle to the County landfill personnel.

## 27 CUSTOMER SERVICE.

A. **Local Office.** Franchisee shall establish and maintain its main office within Blaine County and shall keep said office open for business from 8:00 a.m. to 5:00 p.m., of each and every day except Saturdays, Sundays and other recognized State holidays.

B. **Operation of Office.** Franchisee shall keep and maintain in its local office at all times during the hours it is required to be open, competent personnel who shall have the authority to represent Franchisee in its relations with City and with the public. Franchisee shall obtain and keep in said office sufficient listed telephones and personnel to courteously, quickly and expeditiously receive and answer all telephone and other calls to said office. Additionally, Franchisee shall provide a telephone message recorder for after-hours calls. A daily log of service requests received and the disposition thereof shall be kept by Franchisee and open to inspection by the City. Franchisee shall provide local management satisfactory to the City,

C. **Missed Collections.** Franchisee shall collect and remove from any and all Residential Units and Commercial Units, within twenty-four (24) hours, and no later, after notice, demand or request, any and all Solid Waste which Franchisee shall have failed to collect and remove as required by these specifications at the regularly scheduled time.

D. **Printed Information.** Franchisee shall supply City with printed information containing information regarding: (i) amounts of Solid Waste that will be collected; (ii) complaint procedures; (iii) rates; (iv) regulations; and (v) days of collection,

## 28 CUSTOMER RATES AND BILLING SERVICES.

A. **Customer Rates.** Franchisee shall establish monthly rates for collection and transportation of Solid Waste, which rates are set forth in Exhibit A attached hereto and incorporated herein by reference. Said rates are to be reasonable to allow for a fair profit to Franchisee for its investment and services. Said rates are to be filed with the City Clerk. If such rates are ever increased, said Franchisee shall so file the new rates with the City Clerk a minimum of thirty (30) days prior to the effective date of increase, The City has the privilege to request Franchisee to review the reasonableness of customer rates established by Franchisee, including any proposed increases in such rates, and shall approve or disapprove such increase based upon the above standard of fair profit to the franchisee.

B. **Service Data.** Franchisee shall enter and maintain all residential and commercial service data, including but not limited to type of service, size and type of container, if rented, and frequency of collection.

C. **Billing.** Franchisee shall bill all customers according to the type of service provided as follows:

1. Residential: Quarterly in advance
2. Commercial: Monthly in arrears

D. **Collection of Payments.** Franchisee shall collect payments from customers according to the rates authorized.

E. **Billing Disputes.** Franchisee shall follow its credit and collection policies to resolve all billing disputes related to commercial and residential billing.

F. **Notification to City of Delinquent Accounts.** Franchisee shall notify City on at least a quarterly basis of delinquent customer accounts for which the Franchisee has been unable to collect for a period of thirty (30) days.

## 29 FRANCHISE FEE.

A. **Authorization to Collect.** City authorizes Franchisee to collect a franchise fee from residential and commercial customers with solid waste service. This fee shall be regarded as the consideration paid by Franchisee to the City for the Franchise to provide solid waste service in the service area.

B. **Payment by Franchisee.** Franchisee shall pay City a franchise fee of six percent (6%). Said franchise fee shall be calculated based on gross receipts collected in the service area. Payment shall be made at least quarterly, but may be made more frequently at the option of Franchisee.

C. **Quarterly Accounting Statement.** Franchisee shall prepare a quarterly statement using Generally Accepted Accounting Principles including but not limited to: the number of customers served; the number of services provided during the previous quarter; and gross revenues collected for services provided in the service area during the previous quarter.

D. **Payment Procedures.** Franchisee shall submit quarterly accounting statements and payment of the Franchise Fee in person to the office of the City Clerk no later than the fifteenth (15<sup>th</sup>) of the month following each calendar quarter.

E. **Additional Fee.** As further and additional compensation, Franchisee shall remove all garbage and miscellaneous refuse from the following City buildings and offices: City Hall, Police Department, Fire Department, Street Department, Water and Sewer Department, and Parks Department. Franchisee further agrees to remove upon request of the Street Department all scrap metal, and to assist the City in the waste removal for Wagon Days and City special events free of charge. In the event City grants another franchise, City agrees to set up a schedule that will rotate the obligations set forth in this section among the Franchisees equally.

**210 DATA COLLECTION AND REPORTING.** Franchisee shall submit not later than October 1 of each year during the term of this Agreement to the City an annual report

regarding the Franchise operations, which shall include the following: (i) number of customers and their addresses or names of businesses; (ii) sizes and locations of dumpsters being used; (iii) frequency of pickups; (iv) quarterly total of tonnage; (v) number of delinquent accounts and methods of collection; (iv) number of complaints received regarding service and the resolution of those complaints; and (vii) accidents or problems encountered in providing the Franchise service.

**211 FAIR LABOR PRACTICES.** Franchisee agrees that it has adopted and will maintain and enforce a policy of fair labor and nondiscrimination in accordance with applicable federal and state laws including but not limited to the Fair Labor Standards Act ("FLSA") and Americans With Disabilities Act ("ADA"), as such laws may be amended from time to time, and shall be responsible for the public conduct of all personnel when acting within the scope of their employment.

**212 INSURANCE.**

**A. Required Insurance Levels.** During the term of this Agreement, Franchisee shall maintain in full force and effect at its sole expense the following insurance, with limits on an occurrence basis no less than those shown below:

1. Comprehensive General Liability and Property Damage Insurance:  
Minimum Limits  
Bodily Injury \$2,000,000  
Property Damage \$2,000,000
  
2. Automobile Liability (owned, non-owned and hired):  
Minimum Limits  
Bodily Injury \$2,000,000  
Property Damage \$2,000,000
  
3. Employer's Liability Insurance covering each employee in the execution of the work to the extent such employee is not covered by worker's compensation:  
Minimum Limits  
Per Accident \$2,000,000

**B. All Operations.** The insurance requirements shall cover all services provided by Franchisee including but not limited to all Solid Waste collection and trash receptacle emptying and maintenance.

**C. Additional Insured.** Franchisee's certificates of insurance shall name the City, its officials, employees, and agents as additional named insured and shall be endorsed to specify that such policies cover the liability assumed by Franchisee under this Agreement.

**D. Notification.** Each policy of insurance shall contain an endorsement stating that such policy shall not be altered or canceled by the insurance company or Franchisee without thirty (30) days written notice of such intended alteration or cancellation to the City.

**E. Worker's Compensation.** Franchisee shall secure and maintain at least the statutory amounts of worker's compensation, disability benefits, and unemployment insurance in accordance with the laws of the State of Idaho. Franchisee shall certify that it is aware of the provisions of the labor laws of the State of Idaho requiring every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of such laws, and Franchisee will comply with such provisions before commencing the performance of collection and transportation services.

**F. Proof of Insurance.** Franchisee shall provide and maintain evidence of acceptable insurance at limits listed above and supply such to the City Clerk in order for this Franchise to become effective. Insurance shall be placed with carriers admitted to write insurance in Idaho.

**213 FRANCHISE LIABILITY AND INDEMNIFICATION.** Franchisee and its employees are independent contractors and are not, under this Agreement, the employees or agents of City. It is expressly understood and agreed by and between Franchisee and City that Franchisee shall save the City harmless from, and defend the City from all loss or damages sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever, caused by acts or omissions of Franchisee in operation or maintenance of Franchisee's property or its collection and transportation of Solid Waste service or any other actions of Franchisee in the City. City shall notify, in writing, Franchisee within ten (10) days after presentation of any claim or demand, either by suit or otherwise, made against the City caused by any of the aforesaid acts or omissions on the part of Franchisee. Franchisee shall thereupon have the duty to appear and defend any such suit or action on behalf of the City, without cost or expense to the City.

**214 LETTER OF CREDIT.** Franchisee shall deliver a letter of credit from a sound financial institution in favor of the City in a form approved by the City Council in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) conditioned upon the premise that Franchisee shall observe and faithfully perform the conditions and provisions of this Agreement and the Ordinance granting such Franchise.

**A. Failure to Comply.** Franchisee and City agree that the City may cancel this Agreement at any time on written notice and without any further obligation to Franchisee should Franchisee fail to maintain and keep in full force and effect such letter of credit as herein required.

**B. Assignment.** City reserves the right to increase the amount upon any assignment or transfer of the rights or responsibilities under this Agreement.

**215 OWNERSHIP.** Title to solid waste shall pass to Franchisee when placed in Franchisee's collection vehicle, removed by Franchisee from a container or removed by Franchisee from customer's premises, whichever occurs last. Title to trash shall pass to County at the time of disposal at the Blaine County Landfill. Title to recyclable materials shall pass to recycling processor upon payment to Franchisee for materials delivered. In accordance with Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, title to all hazardous waste and otherwise prohibited waste remains with the generator. Nothing provided herein limits any

recourse Franchisee or City may have against any generator for disposal of any hazardous or prohibited waste.

## **216 COMPLIANCE WITH REGULATIONS.**

**A. Health and Welfare Regulations.** Franchisee shall comply with all applicable federal laws, rules and regulations, the statutes of the State of Idaho, the regulations and ordinances of Blaine County and the City, including but not limited to: Ketchum Municipal Code Chapter 8.04; the regulations and standards of the Solid Waste Division of the Idaho Department of Health and Welfare. and South Central District Health; and all rules and regulations. including federal regulations, relating to hazardous waste, covering the collection and transportation of solid waste as those statutes. ordinances. and regulations now exist or may hereafter be amended.

**B. Safety Regulations.** Franchisee shall comply with the Federal Occupational Safety and Health Act of 1970 ("OSHA") and all other applicable federal, state, County and city health and safety laws, ordinances, rules and regulations.

**C. Guarantee.** Franchisee guarantees City that it will provide all services, programs or activities under this Agreement in accordance with all applicable federal, state and local statutes, regulations and requirements. Further, Franchisee agrees to indemnify and defend City for any loss, expense or damage of any type experienced by City as a result of Franchisee's violation of the guarantees given in this section.

## **3. DUTIES OF THE CITY.**

**3.1 REVIEW OF FRANCHISEE PERFORMANCE AND COMPLIANCE.** City shall be responsible for review of Franchisee performance and compliance. provided that such review shall in no way relieve Franchisee of any supervision, performance, or obligation required by this Agreement.

**3.2 INSPECTION OF RECORDS.** Upon reasonable advance notice, City shall have the right to inspect and audit the records of Franchisee necessary for the enforcement of this Agreement and the Ordinance granting the Franchise, and verification of the accuracy of franchise fee payments, at any time during normal business hours; provided. however, that City shall maintain the confidentiality of any trade secrets or other proprietary information in the possession of Franchisee. Franchisee records subject to such inspection include, but are not limited to, financial records, customer records. accounting records and other reasonable information pertaining to the Franchise.

**3.3 EMERGENCY DECLARATION.** In recognition that the public health, safety and welfare may be endangered by any failure of the Solid Waste collection, transportation and removal system, the City shall be entitled and have the authority to declare a public emergency, provided collection and transportation shall be interrupted for more than ninety-six (96) hours, and shall have the right to take temporary possession of the facilities and equipment of Franchisee for the purpose of continuing the service which Franchisee has agreed to provide in order to preserve and protect the public health and safety. The City shall notify Franchisee and schedule a hearing



at least twenty-four (24) hours before taking temporary possession of Franchisee's equipment and facilities. The City shall have the right to retain possession of said facilities and equipment until Franchisee can demonstrate to the reasonable satisfaction of the City that Franchisee can resume service. During any period in which the City has temporarily assumed the obligations of Franchisee, the City shall be entitled to all revenue. The City shall pay to Franchisee reasonable rental for the facilities and equipment, and other property used by the City in the performance of the franchise.

**3.4 ENFORCEMENT OF DELINQUENT ACCOUNTS.** Upon Franchisee's notification to the City of delinquent accounts, the City may take all action necessary to collect such unpaid charges in the manner provided by law or levy a special assessment against the premises for failure to pay charges and delinquency charges fixed by the franchisee, in the same manner provided by law for the foreclosure and collection of other city special assessments.

#### **4. MISCELLANEOUS PROVISIONS.**

**4.1 INDEPENDENT CONTRACTOR.** It is expressly understood and agreed that Franchisee and any of its employees, agents, or approved subcontractors shall perform all work and service described herein as an independent contractor and not as an officer, agent, servant or employee of the City. Franchisee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same. Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and approved subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between the City and Franchisee.

**4.2 NON-ASSIGNMENT.** Franchisee shall not assign, transfer, sublet, convey, or otherwise dispose of this franchise or the rights, title or interest in or to the same or any part thereof without the prior written consent on the City, which consent the City may withhold for any or no reason. There shall be no subcontracting without the express written consent of the City. In the event of an authorized assignment or subcontract, the assignee or subcontractor shall acknowledge in writing its assumption of all appropriate duties hereunder and agree to be bound by the terms hereof.

**4.3 SUCCESSORS AND ASSIGNS.** All of the terms, covenants and agreements contained herein shall be binding upon and shall inure to the benefit of permitted successors and assigns of the respective parties hereto.

**4.4 NOTICES.** Notices required or contemplated under this Agreement shall be in writing and shall be deemed received when mailed by certified mail, postage paid, return receipt requested, or express mail, to the respective parties at the following addresses:

CITY:  
City Clerk  
P.O. Box 2315  
Ketchum, ID 83340

FRANCHISEE:  
Clear Creek Disposal  
P.O. Box 130  
Ketchum, ID 83340

Any change of address for either party shall be immediately made known to the other party in writing as above provided.

**4.5 ALTERATION OF TERMS.** No amendment, alteration, extension, or modification of this Agreement shall be effective unless made in writing and duly executed by the parties.

**4.6 SAVINGS AND SEVERABILITY CLAUSE.** If any section, paragraph, sentence or provision hereof, or the application thereof to any particular circumstance shall ever be held invalid or unenforceable by a court of competent jurisdiction, such decision or decisions shall not affect the validity of the remaining portions hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

**4.7 IDAHO LAW.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho and ordinances of the City of Ketchum. No term or omission of language in this Agreement shall be construed to amend or waive any provision of the regulations or ordinances of the City of Ketchum. The venue for any claim, litigation, or cause of action between the parties hereto shall be in the Fifth Judicial District of the State of Idaho in and for Blaine County.

**4.8 PERFORMANCE.** The failure of a party hereto to insist upon strict performance or observation of the Agreement shall not be a waiver of any breach or of any terms or conditions of the Agreement by any other party.

**4.9 ATTORNEYS FEES.** In the event of litigation relating to the subject matter of this Agreement, the non-prevailing party shall reimburse the prevailing party for all reasonable attorney fees and costs resulting therefrom.

**4.10 AUTHORITY TO EXECUTE.** Each of the persons executing this Agreement represent and warrant that he has the lawful authority and authorization from their respective entities to execute this Agreement.

**4.11 EFFECTIVE DATE.** This Agreement shall be in full force and effect upon its execution by all parties hereto.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

City of Ketchum

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Obras, LLC dba Clear Creek Disposal

\_\_\_\_\_  
, Managing Member

STATE OF IDAHO            )  
                                      :SS  
County of Blaine            )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, a notary public, personally appeared Mike Goitiandia, know or identified to me to be the Managing Member of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: \_\_\_\_\_



City of Ketchum  
City Hall

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Request to Conduct Public Hearing and Approval of Amended FY21 Budget**

Recommendation and Summary

During the fiscal year, the 1% Additional LOT Fund received excess funds over budget, those funds will be released to the Sun Valley Air Service Board per our joint power agreement. Also, minor adjustments to the Developmental Trust Fund and Wagon Days to cover unanticipated expenditures. Under state law, the city cannot exceed its total appropriated expenses without officially amending the budget and conducting a public hearing.

**"I move to approve the amended FY21 budget and waive the first, second and third reading."**

Introduction and History

Due to the unknown increases in revenue and expenditures at fiscal yearend:

<b>Developmental Trust <u>Revenue</u> Budget:</b>	<b>\$ 150,000</b>
Proposed Adjustments	\$ 30,250
<b><u>Amended Revenue Budget</u></b>	<b>\$ 180,250</b>
<b>Developmental Trust Fund <u>Expenditure</u> Budget</b>	<b>\$ 150,000</b>
Budget Adjustments	\$ 30,250
<b><u>Amended Total Expenditures</u></b>	<b>\$ 180,250</b>
<b>Additional 1% LOT Fund <u>Revenue</u> Budget:</b>	<b>\$2,222,699</b>
Proposed Adjustments	\$ 906,201
<b><u>Amended Revenue Budget</u></b>	<b>\$3,128,800</b>
<b>Additional 1% LOT Fund <u>Expenditure</u> Budget</b>	<b>\$2,222,699</b>
Budget Adjustments	\$ 906,201
<b><u>Amended Total Expenditures</u></b>	<b>\$3,128,800</b>
<b>Wagon Days <u>Revenue</u> Budget:</b>	<b>\$ 85,650</b>
Proposed Adjustments	\$ 12,850
<b><u>Amended Revenue Budget</u></b>	<b>\$ 98,500</b>

<b>Wagon Days Fund <u>Expenditure</u> Budget</b>	<b>\$ 85,650</b>
Budget Adjustments	\$ 12,850
<b><u>Amended Total Expenditures</u></b>	<b>\$ 98,500</b>

Sustainability Impact

None

Financial Requirement/Impact

This proposed amended budget is a balanced budget per state statute.

Attachment:

Notice of Public Hearing

**ORDINANCE NO. 1229**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING ORDINANCE NUMBER 1208, 1221, THE AMENDED ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020, AND ENDING SEPTEMBER 30, 2021; APPROPRIATING ADDITIONAL MONIES TO BE RECEIVED BY THE CITY OF KETCHUM, IDAHO; AND PROVIDING AND EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO:

SECTION 1. The Ordinance Number 1208, 1221 the Amended Annual Appropriation Ordinance for the city of Ketchum, Idaho, for the fiscal year commencing October 1, 2020, and ending September 30, 2021, be hereby amended as follows:

<b>EXPENDITURES</b>	<b>ADOPTED FY 2020- 2021</b>	<b>REVISED FY 2020- 2021</b>	<b>PROPOSED ADJUSTMENT</b>
<b>DEVELOPMENTAL TRUST FUND</b>	<b>150,000</b>	<b>30,250</b>	<b>180,250</b>
<b>ADDITIONAL 1% LOT FUND</b>	<b>2,222,699</b>	<b>906,201</b>	<b>3,128,800</b>
<b>WAGON DAYS FUND</b>	<b>85,650</b>	<b>12,850</b>	<b>98,500</b>
		<b>TOTAL</b>	<b>949,201</b>

That the additional sum be appropriated out of the revenues received from:

<b>REVENUES</b>	<b>ADOPTED FY 2020- 2021</b>	<b>REVISED FY 2020- 2021</b>	<b>PROPOSED ADJUSTMENT</b>
<b>DEVELOPMENTAL TRUST FUND</b>	<b>150,000</b>	<b>30,250</b>	<b>180,250</b>
<b>ADDITIONAL 1% LOT FUND</b>	<b>2,222,699</b>	<b>906,201</b>	<b>3,128,800</b>
<b>WAGON DAYS FUND</b>	<b>85,650</b>	<b>12,850</b>	<b>98,500</b>
		<b>TOTAL</b>	<b>949,201</b>

Section 2. This Ordinance shall be in full force and effect from after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Ketchum, Idaho, this 18<sup>th</sup> day of November 2021.

\_\_\_\_\_  
NEIL BRADSHAW, MAYOR

ATTEST:

\_\_\_\_\_  
Tara Fenwick  
City Clerk

Publish: Idaho Mountain Express  
November 24, 2021

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Ketchum, Idaho, will hold a Public Hearing for consideration of an amendment to the 2020-21 fiscal year budget. The Council will consider appropriation of additional monies received by the City of Ketchum, Idaho, during the fiscal year. Said hearing will be held at Ketchum City Hall, 480 East Avenue North, at 4:00 p.m. on November 18, 2021.

That the following table sets forth the amounts appropriated to each fund for the current 2020-21 fiscal year, the amount of the revised appropriation for each fund for the 2020-21 fiscal year, and the proposed adjustment amount.

**CITY OF KETCHUM, IDAHO**

	<b>EXPENDITURES</b>		<b>PROPOSED</b>
	<b>ADOPTED FY 2020- 2021</b>	<b>REVISED FY 2020-2021</b>	<b>ADJUSTMENT</b>
<b>GENERAL FUND</b>	12,687,889	12,687,889	0
ESSENTIAL SERVICES FACILITIES TRUST FUND	2,138,120	2,138,120	0
GENERAL CAPITAL IMPROVEMENT FUND	563,000	563,000	0
STREET CAPITAL IMPROVEMENT FUND	232,600	232,600	0
LAW ENFORCEMENT IMPROVEMENT FUND	250	250	0
FIRE CAPITAL IMPROVEMENT FUND	241,030	241,030	0
PARKS & RECREATION CAP. IMP. FUND	0	0	0
PARKS & RECREATION TRUST FUND	49,050	49,050	0
POLICE TRUST FUND	5,000	5,000	0
DEVELOPMENT TRUST FUND	150,000	180,250	30,250
ORIGINAL LOT FUND	2,217,247	2,217,247	0
ADDITIONAL 1%-LOT FUND	2,222,699	3,128,800	906,101
GO BOND DEBT SERVICE FUND	149,835	149,835	0
FIRE CONSTRUCTION FUND	9,500,000	9,500,000	0
FIRE GO BOND FUND	615,284	615,284	0
COMMUNITY HOUSING IN-LIEU FUND	2,250,000	2,250,000	0
WAGON DAYS FUND	85,650	98,500	12,850
WATER FUND	2,390,937	2,390,937	0
WATER CAPITAL IMPROVEMENT FUND	522,000	522,000	0
WASTEWATER FUND	2,587,242	2,587,242	0
WASTEWATER CAPITAL IMP. FUND	462,000	462,000	0
<b>Total Expenditures</b>	<b>39,069,833</b>	<b>40,019,034</b>	<b>949,201</b>
	<b>REVENUE</b>		
<b>GENERAL FUND</b>			
GENERAL PROPERTY TAXES	4,339,021	4,339,021	0
OTHER REVENUE	8,144,918	8,144,918	0
FUND BALANCE APPLIED	511,000	511,000	0
<b>TOTAL GENERAL FUND</b>	<b>12,994,939</b>	<b>12,994,939</b>	<b>0</b>
<b>ESSENTIAL SERVICES FACILITIES TRUST FUND</b>			
FUND BALANCE APPLIED	492,151	492,151	0
	1,645,969	1,645,969	0
<b>TOTAL ESF TRUST FUND</b>	<b>2,138,120</b>	<b>2,138,120</b>	<b>0</b>
<b>GENERAL CAPITAL IMPROVEMENT FUND</b>			
FUND BALANCE APPLIED	251,219	251,219	0
	361,781	361,781	0
<b>TOTAL GENERAL CAPITAL IMPRVMENT FUND</b>	<b>613,000</b>	<b>613,000</b>	<b>0</b>
<b>STREET CAPITAL IMPROVEMENT FUND</b>			
FUND BALANCE APPLIED	205,100	205,100	0
	27,500	27,500	0
<b>TOTAL STREET CAPITAL IMPR. FUND</b>	<b>232,600</b>	<b>232,600</b>	<b>0</b>
<b>LAW ENFORCEMENT IMPROVEMENT FUND</b>	<b>900</b>	<b>900</b>	<b>0</b>
<b>FIRE CAPITAL IMPROVEMENT FUND</b>			
FUND BALANCE APPLIED	0	0	0
	249,630	249,630	0
<b>TOTAL FIRE CAPITAL IMPROVEMENT FUND</b>	<b>249,630</b>	<b>249,630</b>	<b>0</b>
<b>PARKS &amp; RECREATION CAP. IMP. FUND</b>			
TOTAL PARKS & RECREATION CAP.IMP.FND	10,200	10,200	0
	10,200	10,200	0
<b>PARKS &amp; RECREATION TRUST FUND</b>			
FUND BALANCE APPLIED	10,000	10,000	0
<b>TOTAL PARKS &amp; RECREATION TRUST FUND</b>	<b>42,050</b>	<b>42,050</b>	<b>0</b>
	52,050	52,050	0
<b>POLICE TRUST FUND</b>			
FUND BALANCE APPLIED	3,500	3,500	0
	1,500	1,500	0
<b>TOTAL POLICE TRUST FUND</b>	<b>5,000</b>	<b>5,000</b>	<b>0</b>
<b>DEVELOPMENT TRUST FUND</b>	<b>150,000</b>	<b>180,250</b>	<b>30,250</b>
<b>ORIGINAL LOT FUND</b>			
FUND BALANCE APPLIED	0	0	0
	2,400,000	2,400,000	0
<b>TOTAL ORIGINAL LOT FUND FUND</b>	<b>2,400,000</b>	<b>2,400,000</b>	<b>0</b>
<b>ADDITIONAL 1%-LOT FUND</b>	<b>2,222,699</b>	<b>3,128,800</b>	<b>906,101</b>
<b>GO BOND DEBT SERVICE FUND</b>	<b>149,835</b>	<b>149,835</b>	<b>0</b>
<b>FIRE CONSTRUCTION FUND</b>			
FUND BALANCE APPLIED	9,500,000	9,500,000	0
	0	0	0
<b>TOTAL FIRE CONSTRUCTION FUND</b>	<b>9,500,000</b>	<b>9,500,000</b>	<b>0</b>
<b>FIRE GO BOND FUND</b>			
FUND BALANCE APPLIED	0	0	0
	615,284	615,284	0
<b>TOTAL FIRE GO BOND FUND</b>	<b>615,284</b>	<b>615,284</b>	<b>0</b>
<b>COMMUNITY HOUSING IN-LIEU FUND</b>			
FUND BALANCE APPLIED	2,200,000	2,200,000	0
	30,000	30,000	0
<b>TOTAL COMMUNITY HOUSING IN-LIEU FND</b>	<b>2,230,000</b>	<b>2,230,000</b>	<b>0</b>
<b>WAGON DAYS FUND</b>			
FUND BALANCE APPLIED	0	0	0
	85,650	98,500	12,850
<b>TOTAL WAGON DAYS FUND</b>	<b>85,650</b>	<b>98,500</b>	<b>12,850</b>
<b>WATER FUND</b>			
FUND BALANCE APPLIED	0	0	0
	2,494,522	2,494,522	0
<b>TOTAL WATER FUND</b>	<b>2,494,522</b>	<b>2,494,522</b>	<b>0</b>
<b>WATER CAPITAL IMPROVEMENT FUND</b>			
FUND BALANCE APPLIED	0	0	0
	522,000	522,000	0
<b>TOTAL WATER CIP FUND</b>	<b>522,000</b>	<b>522,000</b>	<b>0</b>
<b>WASTEWATER FUND</b>			
FUND BALANCE APPLIED	0	0	0
	2,796,861	2,796,861	0
<b>TOTAL WASTEWATER FUND</b>	<b>2,796,861</b>	<b>2,796,861</b>	<b>0</b>
<b>WASTEWATER CAPITAL IMP. FUND</b>			
FUND BALANCE APPLIED	0	0	0
	462,000	462,000	0
<b>TOTAL WASTEWATER CAPITAL IMP. FUND</b>	<b>462,000</b>	<b>462,000</b>	<b>0</b>
<b>Total Revenue</b>	<b>39,925,290</b>	<b>40,874,491</b>	<b>949,201</b>



City of Ketchum  
City Hall

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

**Recommendation to review additional information related to an update of the City of Ketchum  
Community Housing In-Lieu Fees and provide direction to staff**

Recommendation and Summary

Staff is recommending the council review the additional information provided by staff and Blaine County Housing Authority (BCHA), as requested at the October 18, 2021, City Council meeting and provide direction to staff on the short term and long-term path forward for adoption of an updated housing-in-lieu fee and community engagement.

Background

At the October 26, 2021, meeting of the Ketchum City Council, staff and BCHA presented a recommended update of the per square foot housing in-lieu fee of \$607. The proposed fee was based on the current methodology in place since 2015, with updated assumptions for best practices and market conditions. The current in-lieu fee is \$238.00 per square foot and has not been updated since 2016.

The amount the city charges for the in-lieu fee is at the discretion of the Council. Although the methodology may reflect a fee amount based on a set methodology, market inputs, and assumptions, the council may elect to set a fee at an amount less than what the methodology yields. The Council can set the fee at an amount suitable to achieve the goals of the program. Based on feedback from the community, there is general support for an update to the fee, however, some expressed concern for the steep increase in fees and elements of the methodology and assumptions. Suggestions were made to revise the methodology assumptions and inputs. Many of the suggestions would require a fundamental change to the methodology of the fee-in-lieu calculation and in some instances, changes to the Ketchum Municipal Code (KMC). As of the date of this report, staff has only received one additional letter of public comment since the October 18, 2021 meeting. A copy of all public comment received to date is included in Attachment D, organized with the most recent comments placed first.

If Council sees a need to establish a new fee methodology and approach, the process to develop a new approach would take approximately 6-12 months. Before embarking on a new approach for calculating fees, staff recommends completion of the Housing Strategic Plan to determine how the fee fits into the overall housing goals. A change in the fee methodology would involve community outreach and engagement hence the 6–12-month process for establishing a new methodology. A



delay of 6-12 months would impact the city's ability to collect an appropriate fee for projects yet to be filed in the 2022 development season.

Staff recommends the council update the housing fee-in-lieu using the current methodology in the short-term. Once the Housing Strategic Plan is complete and after community feedback and engagement, Council should determine if the fee, the methodology and approach should be changed. If Council determines a community workshop is important at this time, staff requests direction on what information the Council would like to obtain in a workshop.

#### Housing In-Lieu Fee History and Calculation

The City of Ketchum adopted Ordinance 994 in 2006 establishing a community housing density bonus incentive which provided for an increased floor area ratio (FAR) in exchange for community housing. Since 2006 changes have been made to the original requirement and Ketchum Municipal Code (KMC) Section 17.124.040 reflects the current standards. An applicant may satisfy the community housing requirement in different ways. One way is to contribute a housing in-lieu fee. Under KMC 17.124.040.B.2.c, the in-lieu fee shall be recommended by the governing housing authority on an annual basis and adopted by the City Council.

The purpose of the density bonus incentive "is to encourage new development to include a reasonable supply of affordable and resident occupied workforce housing for sale or rent, to help meet the demand and needs for housing of the community's employees." A project may exceed the permitted FAR within the city's Community Core (CC-1 and CC-2), Tourist (T, T-3000, and T-4000), and General Residential – High Density (GR-H) zone districts subject to review and approval of the project design by the Planning and Zoning Commission.

Projects taking advantage of the increased FAR must provide a certain square footage of community housing per the calculation outlined in KMC 17.124.040 or KMC 17.124.050 for hotels. The requirement may be satisfied by one or a combination of the following:

- Provide community housing on-site
- Construction of community housing off-site, within the city limits
- Acquisition of existing housing stock subject to City approval
- Land conveyance to the city
- Pay a fee-in-lieu of community housing

The calculation for applying the fee is outlined in KMC 17.124.040.B.2.a and b. Projects taking advantage of the density bonus program must mitigate 20% of the net increase of floor area for a project. Most projects that utilize the program are in the Community Core (CC) zone district, although there are other zone districts that have density bonus provisions. Attachment A includes a detailed calculation of an example project in the CC district. For a project in the CC district on one Ketchum Townsite lot of 5,500 square feet, a project would be permitted to build up to 12,375 square feet. For a project that seeks to maximize the benefit, a 12,000 square foot project would be required to provide 1,105 square feet of Community Housing, or approximately 9% of the project.

As discussed above, applicants have the option of satisfying the requirement by providing physical units or by paying a fee-in-lieu. In this scenario, at a rate of \$238 per square foot, a housing fee-in-lieu of \$262,990 would be assessed if no physical units were provided. For perspective, the housing fee-

in-lieu of this scenario represents approximately 5% of the total construction cost of the project assuming a cost of construction of \$450 per square foot.

Analysis

Below is additional information requested by City Council during the October 18, 2021 meeting.

5 Year Trend

Per the KMC, the fee-in-lieu rate should be updated annually. The current fee-in-lieu rate of \$238 was adopted in 2016 and has not been updated since. Below is a Table that shows what the fee-in-lieu rates would have been each year, using the same assumptions and methodology of 2015. This table assumes an update of the fee in January of each year. There are two 2021 fees shown in the Table. The first is if there was an update to the fee in January of 2021. The second is what the fee would be with an update in October of 2021, using the same methodology as previously adopted. As discussed at the October 18, 2021 meeting, staff and BCHA recommended changes to the administrative fee and assumed interest rate resulting in a proposed fee of \$607, a \$4 difference.

**Table 1**

<b>In Lieu Fees History 2015 Adopted Methodology</b>							
<b>Reporting Period</b>	<b>Year</b>	<b>In Lieu Fee</b>	<b>Change</b>	<b>Percent Change</b>	<b>Median Sales Price Used</b>	<b>Change</b>	<b>Percent Change</b>
Jan-Dec 2014	2015	\$ 196	--	--	\$ 377,500	--	--
Jan-Dec 2015	2016	\$ 238	\$ 42	21%	\$ 612,500	\$ 235,000	62.3%
Jan-Dec 2016	2017	\$ 254	\$ 17	7%	\$ 512,500	\$ (100,000)	-16.3%
Jan-Dec 2017	2018	\$ 327	\$ 73	29%	\$ 685,000	\$ 172,500	33.7%
Jan-Dec 2018	2019	\$ 351	\$ 25	8%	\$ 740,000	\$ 55,000	8.0%
Jan-Dec 2019	2020	\$ 365	\$ 13	4%	\$ 758,000	\$ 18,000	2.4%
Jan-Dec 2020	2021	\$ 464	\$ 100	27%	\$ 990,000	\$ 232,000	30.6%
Sept 20-Sept 21	2021	\$ 603	\$ 139	30%	\$ 1,085,000	\$ 95,000	9.6%

The blue columns in the table above represent the percent change in the fee. The past two years have certainly resulted in substantial increase in market prices due to the influx of people the city has seen during COVID, however, it is important to note that similar increases have occurred in 2015/2016, 2018/2018, and today. This information demonstrates the trend of increasing popularity of our mountain community and a widening of the gap between the target affordable purchase price and the free market.

Sensitivity

The City Council requested a sensitivity analysis showing the fee-in-lieu amount for a variety of inputs including household size, administrative fee, interest rate, and affordable unit size. Staff and BCHA rely on data sources that can be verified and documented through census or other government sources. For reference, Attachment B is the updated fee as proposed by staff on October 18, 2021. Attachment C shows the full detail of the sensitivity analysis for these variables. The analysis shows the full calculation as proposed on October 18, 2021 and a sensitivity analysis evaluating variables for

administrative fee, persons per household, interest rate, and affordable unit size. The sensitivity analysis shows a range of fees from \$389 to \$607.

As mentioned above, the methodology is a statistical analysis using a set of assumptions, some of which can vary and others that do not. Staff acknowledges that the proposed \$607 per square foot represents a steep increase in the fee that may not be palpable for the development community due to the time lapse since the last update. At its discretion, the council may elect to set a fee at an amount deemed suitable to achieving the overall goals of the housing fee-in-lieu program.

### Next Steps

Considering the information above, the council may proceed in a number of ways:

- Retain the existing methodology and set the housing in-lieu fee at a rate that achieves the goals of the program but is responsive to concerns of the development community.
- Retain the existing methodology and update the fee based on inputs and final assumptions from the information above.
- Keep the fee as is and defer future increases until an update to the methodology can be achieved following discussions and recommendations from the Housing Strategic Plan.

Staff acknowledges that the timeframe provided for update of the fee has not resulted in extensive outreach. The council suggested a work session discussion with the community prior to adoption of the updated fee. If the council believes the work session to be valuable, based on the information above, staff will work to coordinate one.

### Sustainability

This request does not inhibit the City of Ketchum's ability to implement the 2020 Ketchum Sustainability Action Plan.

### Financial Impact

Increasing the fee-in-lieu may increase the balance of the City of Ketchum in-lieu fund, however this is dependent on whether developers elect to build housing or pay the fee-in-lieu.

### Attachments

- A. Housing Fee-in-Lieu Calculation Example
- B. Updated Fee Recommended on October 18, 2021
- C. Housing Fee-in-Lieu Sensitivity Analysis
- D. Public Comment

Attachment A:  
Housing Fee-in-Lieu Calculation  
Example

**HOUSING FEE-IN-LIEU EXAMPLE**

Assumptions	Amount	Unit	Notes
Square Footage of Lot	5,500	SF	One ketchum Townsite Lot
Permitted Floor Area Ratio (FAR) - 1.0	5,500	SF	Permitted by right in the CC District
Maximum FAR with Community Housing Mitigation - 2.25	12,375	SF	Maximum allowed in the CC District with Community Housing Mitigation

Minimum Requirement for Community Housing			
Proposed Gross Floor Area of Project	12,000	SF	Less than maximum FAR as projects often include surface parking off alleys not included in FAR calculation
Density Bonus Square Footage	6,500	SF	(12,000 SF - 5,500 SF) Proposed Gross Floor Area minus Permitted FAR in the CC district
Square Footage of Housing Required (Gross) - 20% mitigation	1,300	SF	(6,500 SF X 0.2) - 20% of density bonus
Square Footage of Housing Required (Net)	1,105	SF	(1,300 SF X 0.85) - 15% reduction of density bonus to reach net livable square footage
<b>Required Community Housing</b>	<b>1,105</b>	<b>SF</b>	

Mitigation - No Units Provided			
Required SF of Community Housing	1,105		
On or Off-site Units	-		No on-site units provided in this scenario
Housing Fee per SF	\$ 238.00		Adopted in 2016
<b>Fee-In Lieu Amount</b>	<b>\$ 262,990.00</b>		1,105 SF X \$238.00

Mitigation - Units provided			
Required SF of Community Housing	1,105	SF	
On or Off-site Units	650	SF	Assume one 650 SF unit on or off-site
Remaining SF of Community Housing	455	SF	1,105 SF - 650 SF
Housing Fee per SF	\$ 238.00		Adopted in 2016
<b>Fee-In Lieu Amount</b>	<b>\$ 108,290.00</b>		455 SF X \$238.00

**Attachment B:  
Updated Fee Recommended on  
October 18, 2021**

**Update Recommended to Council on October 18, 2021**

**(Ketchum In-lieu fee)**

<b>BCHA Income Category No.</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>Area Median Income</b>	<b>&lt; 60%</b>	<b>61% - 80%</b>	<b>81% - 100%</b>	<b>101% - 120%</b>
Max. Annual Income (2-person HH, 2021 Income Limits)	<b>\$36,000</b>	<b>\$48,000</b>	<b>\$60,000</b>	<b>\$72,000</b>
Gross Monthly Income (Income Category Limits)	\$3,000	\$4,000	\$5,000	\$6,000
Targeted Monthly Income (Income Category Midpoint)		\$3,500	\$4,500	\$5,500
Affordable Monthly Housing Costs (30% of gross)		\$1,050	\$1,350	\$1,650
Utilities, Taxes & Insurance (15% of Gross Housing Costs)		\$158	\$203	\$248
HOA Dues (Ketchum median*)		\$312	\$312	\$312
Mortgage Payment Amount (Housing Costs, minus Utilities/Taxes/Insurance, minus HOA Dues)		\$581	\$836	\$1,091
20 Year Adjusted Average Interest Rate		4.85%	4.85%	4.85%
Max. Mortgage (30-year Term)		\$110,007	\$158,331	\$206,655
Down payment (3%)		\$3,300	\$4,750	\$6,200
<b>Target Affordable Purchase Price</b>		<b>\$113,308</b>	<b>\$163,081</b>	<b>\$212,854</b>

<b>City of Ketchum In-lieu Fee Calculation Worksheet</b>	
<i>(Affordability Gap Method)</i>	
Market Rate Median Price*	\$1,085,000
Market Rate Median Size (Livable sq. ft.)	<b>1,697</b>
Market Rate Median Price per Square Foot*	\$658
<hr/>	
Affordable Purchase Price	\$163,081
Target Square Footage for Community Housing	<b>1,250</b>
Affordable Price Per Square Foot	\$130
<hr/>	
Affordability Gap (Purchase Price)	\$921,919
Affordability Gap (Price per Livable sq.ft.)	\$528
Administrative Fee (15%)	\$79
<hr/>	
<b>2020 Payment In-lieu (per sq.ft.)</b>	<b>\$607</b>
<hr/>	
*MLS Sold Data FY 2021	

**Current as of 10/18/2021**

# Attachment C: Housing Fee-in-Lieu Sensitivity Analysis



In Lieu Fees												
Assumption Sensitivity												
Affordable Unit Size	Admin Fee 0%				Admin Fee 10%				Admin Fee 15%			
	2 person HH		3 person HH		2 person HH		3 person HH		2 person HH		3 person HH	
	20 year IR <sup>1</sup>	5 year IR <sup>2</sup>	20 year IR	5 year IR	20 year IR	5 year IR	20 year IR	5 year IR	20 year IR	5 year IR	20 year IR	5 year IR
1,250 SF <sup>3</sup>	\$ 528	\$ 508	\$ 505	\$ 483	\$ 580	\$ 559	\$ 556	\$ 531	\$ 607	\$ 584	\$ 581	\$ 555
908 SF <sup>4</sup>	\$ 478	\$ 452	\$ 448	\$ 416	\$ 526	\$ 497	\$ 492	\$ 458	\$ 550	\$ 520	\$ 515	\$ 479
815 SF <sup>5</sup>	\$ 458	\$ 428	\$ 424	\$ 389	\$ 504	\$ 471	\$ 466	\$ 428	\$ 527	\$ 493	\$ 487	\$ 447

**Notes:**

1. IR stands for Interest Rate. The 20 year average interest rate is 4.85%.
2. The 5 year average interest rate is 3.69%.
3. The Affordable Unit Size of 1250 SF is the unit size assumption used in calculating 2015 and 2016 fees.
4. The Affordable Unit Size of 908 SF is the median size of all for-sale properties within the City of Ketchum Community Housing Inventory.
5. The Affordable Unit Size of 815 SF is the median size of all properties (for-sale and rental) within the City of Ketchum Community Housing Inventory.

# Attachment D: Public Comment

**From:** [Morgan Landers](#)  
**To:** [Morgan Landers](#)  
**Subject:** FW: Builder fees  
**Date:** Friday, November 12, 2021 9:40:33 AM

---

-----Original Message-----

From: susancneaman@gmail.com <susancneaman@gmail.com>  
Sent: Monday, October 25, 2021 2:55 PM  
To: Participate <participate@ketchumidaho.org>  
Subject: Builder fees

Yes to the fees for builders!  
Susan

Sent from my iPhone

**From:** [Amanda Breen](#)  
**To:** [Lisa Enourato](#)  
**Subject:** Fwd: Please correct the proposed cash-in-lieu calculation  
**Date:** Saturday, October 16, 2021 9:29:46 PM

---

Public comment

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

---

**From:** bob@sunvalleyrealtors.org <bob@sunvalleyrealtors.org>  
**Sent:** Saturday, October 16, 2021 9:08:35 PM  
**To:** Amanda Breen <ABreen@ketchumidaho.org>; Jim Slanetz <jslanetz@ketchumidaho.org>; Michael David <mdavid@ketchumidaho.org>; Courtney Hamilton <CHamilton@ketchumidaho.org>  
**Subject:** Please correct the proposed cash-in-lieu calculation

Ketchum City Council:

Following are our comments concerning the BCHA and staff recommendation to increase the cash-in-lieu fee for community housing to \$607 per square foot. This seemingly straight-forward calculation becomes more complicated when the impact of each assumption is considered but ensuring that each assumption reflects the purpose of this program is the only way to produce a fair and accurate calculation.

Please feel free to call me at any time this weekend or Monday if you have any questions or would like additional data or explanation. We apologize for delivering this over the weekend, but the staff report was not posted until mid-morning Friday, leaving us insufficient time to complete our research soon enough to send our comments by Friday afternoon.

Thank you in advance for your time and consideration of our concerns.  
Bob

Bob Crosby  
Government Affairs Director  
Sun Valley Board of REALTORS  
208-721-8353

### **Request to Correct the Data Used to Calculate Cash-in-Lieu:**

**Staff has asked the Ketchum City Council to approve a \$607 per square foot cash-in-lieu calculation. We believe this amount is a result of using unsupported or ill-conceived data from which to derive the components of the cash-in-lieu formula. We explain our concerns below and ask the City Council to table approval of this amount until BCHA and staff can correct the calculation, based on Council's direction to use inputs in the formula that correlate to the purpose and need of this program (see Solution and Recommendation, below).**

**Purpose:** To establish the correct cash-in-lieu amount one must calculate the difference between

the market rate cost of a community housing home and the amount a purchaser can afford to pay without being housing cost burdened. This purpose is evidenced by the formula utilized by BCHA to calculate the cash-in-lieu amount.

**Key Factors:** Three inputs are crucial to the fair and reasonable calculation of cash-in-lieu: median market price, median home size, and household size for the purpose of establishing maximum income and the HUD related maximum amount a community housing purchaser can pay for a community housing home.

**Methodology:** The formula presented by BCHA and staff is fine, however the inputs they have used in the formula appear to be chosen for the purpose of calculating the highest possible cash-in-lieu number, without regard for market facts or other community housing standards. We propose alternate methodology to correct this approach below:

1. **Comparable Homes Used to Establish Market Price:** BCHA and staff have used the median of all homes sold in the past 12 months in Ketchum to determine the median market price of a community home (the starting point of this calculation). This includes the following homes: i) an over 6,000 square foot, \$11 million home, ii) an over 6,500 square foot, over \$5 million home, and iii) an over 7,500 square foot, almost \$5 million home, among many other multi-million dollar, multi thousand square foot, homes. By choosing this universe of “comparable” homes, **the median price and size is vastly overstated** for the purposes of calculating cash-in-lieu.
  - a. **Alternate Method:** We believe that the universe of comparable homes used to establish the median market price and size of a community home should include all properties sold in the trailing 12 months that might somehow be considered for a potential community housing home acquisition. We recommend capping the purchase price at \$600,000 for this purpose, but you could consider anything up to \$1 million even though one would hope that in the interests of being efficient with precious resources and effective in terms of housing the maximum number of families, a lower limit would be used. For context, in Ketchum last year there were 61 homes sold for \$600,000 or less, providing more opportunity for investment in community housing of this style than Ketchum will ever be able to afford on an annual basis. Once these parameters are established, the median size and median HOA cost also are provided by the data set.
2. **Median Size of Homes:** BCHA and staff have arbitrarily chosen 1,250 square feet as the median size of a community housing home for the purpose of this calculation, with absolutely no statistical support for it. (Re: point 1 above: The fact that BCHA and staff felt obligated to arbitrarily choose a smaller number that is significantly less than the actual median for the “comparable” homes staff and BCHA have chosen to use to establish their median price for market rate community homes, implies that using all homes sold in Ketchum as the starting point for this analysis is also wrong, as stated in 1. above). More than any other factor, the median home size used in this calculation impacts the eventual cash-in-lieu cost per square foot; **by arbitrarily selecting a larger than appropriate size, BCHA and staff create an arbitrarily larger cash-in-lieu amount.** This is because the gross dollars that a purchaser can contribute to a community housing purchase is greatly reduced on a per square foot basis by dividing it by a larger number than is supported by the data. Four examples of why the arbitrary selection of 1,250 square feet is inappropriately large are:
  - a. The median size of the subset of homes ultimately identified by the City Council as appropriate to establish the median market price and size, provided the Council sees that that subset should correlate to the purpose and need of this calculation, will have a significantly lower median size than 1,250 square feet (**see Solution and Recommendation below**).
  - b. IHFA states that homes shall not be less than the following sizes, obviously indicating

that 1,250 square feet is far in excess of that required, or deemed necessary by IHFA to provide a community housing home:

- i. 1 bedroom 600 square feet
  - ii. 2 bedrooms 750 square feet
  - iii. 3 bedrooms 1,000 square feet
- c. ARCH has just finished developing 60+ family units in Hailey. The 2 bedroom units in that development are 914 square feet.
- d. The City supports Bluebird Village in its desire to provide community housing. The predominant unit sizes at Bluebird Village are:
- i. 1 bedroom 640 square feet
  - ii. 2 bedrooms 796 square feet
  - iii. 3 bedrooms 1,096 square feet
- e. The household size used by BCHA and staff in this calculation (2 persons) can easily fit comfortably within a 2 bedroom home with these median sizes, as could households of 3 persons.
- f. **Alternate Method: If the City Council directs staff and BCHA to utilize an appropriate set of homes to establish the appropriate median market price for community housing, then the median size will be the actual median size of those homes, not some arbitrary size chosen by BCHA and staff.**

3. **Household Size:** Choice of household size is also crucial to this calculation because that is what determines the income level that HUD stipulates, which in turn determines the maximum amount a purchaser can contribute to the purchase of a community housing home without being housing cost burdened. BCHA and staff persist in using a 2 person household size to calculate the cash-in-lieu amount, despite the **2019** census data stating that in 2019 the average Ketchum household contained 2.43 people, and the **2015-2019** census data for Blaine County stating that the average household size in the County was then 2.75 persons. Staff says it has used a household size of 2 because that's the appropriate rounding methodology from 2.43 (.07 persons from rounding up to 3!). The census margin of error with the 2.43 number is .23 so the 2019 number could be as high as 2.66 persons. If you consider married couple households the census says the 2019 average size is 2.89 people with a margin of error of .24 that on the upside puts the average Ketchum married couple household over 3 persons in 2019, and on the downside would result in rounding up to a household size of 3 persons. **All of these factors support using a household size of 3 in the analysis. More importantly, this data pre-dates the pandemic related influx** we know has increased the population of Ketchum and the County dramatically. If one considers how stale dated this information is, and the fact that since 2019 Ketchum has experienced its two biggest real estate sales years in memory, with the huge influx of residents we have experienced, then the obvious conclusion is that a Ketchum household size now, at the end of 2021, is almost certainly over 2.5 persons which according to staff's logic should then be rounded up to 3 persons.

- a. **Alternate Method: While we suspect that the real size is even larger, Council should insist that a household size of at least 3 be used to result in a fair and accurate calculation of cash-in-lieu.**

4. **Administrative Fee?** The 2016 BCHA memo upon which the present methodology is based, suggests that an administrative fee **"should be considered" (NOT should be included)** on the basis that the City might have to pay for soft costs of some description were it to suddenly become a real estate developer, an eventuality I believe we all hope never comes to pass. There are two reasons why this fee should not be added to the calculation of cash-in-lieu:

- a. All such construction related soft costs are already baked into the starting point of this calculation which is the retail median price of a home. To add these costs in again would be double counting them, and
- b. The methodology for this calculation is meant to measure the gap between affordable and market price for a community housing home. It has nothing to do with development, and the City is not a developer in any event. If the City chooses to use these funds for development at a later date it may do so, but it **cannot burden real estate businesspeople today with an imagined charge given that the probability is**

**that these costs will never actually be incurred.** If staff must review proposals for the use of this money, then it should, as is its job, without the need for additional fees to cover salaries already paid for by other City revenue. The insertion of an administrative fee is simply an unfounded money grab **at the rate of over \$75,000 per 900 square foot community housing unit** (fee = \$84 psf x 900 sf = \$75,600) **and should be seen by the Council for what it is and removed from the calculation of cash-in-lieu.**

5. **Financial Impact:** The staff report states that the only financial impact of increasing the cash-in-lieu fee to \$607 per square foot is that the balance of the City cash-in-lieu fund might increase unless developers choose to build community housing instead. **There are two very real additional outcomes:**
  - a. **Developers choose not to build in Ketchum over 1.0 F.A.R. density, or choose not to build at all,** deciding that an extra \$369 per square foot cost for community housing cash-in-lieu, or **a community housing cash-in-lieu cost of over \$1,400,000 for a standard 11,000 square foot 2 lot development site, is a deal killer,** which many believe it will be. **\$607 per square foot x 0 community housing bonus density square feet built = \$0 raised for community housing.** Remember, projects built to 1.0 F.A.R. require no payment for community housing.
  - b. **If developers are forced to accept \$607 or some other arbitrarily high cost per square foot, then the only way that development projects make sense is if the price of every other component of the project goes up to pay for the increased cash-in-lieu cost of bonus density, to the degree the market will support such pricing. Relative prices trickle down to other properties making everything more expensive than it already is or needs to be.**
  
6. **Solution and Recommendation:** It is imperative that the calculation of cash-in-lieu be accurate and based on logical, real, data. Penalizing and potentially crippling the development industry, which benefits so many of your constituents, and contributes heavily to public and private revenues, by allowing cherry-picking of data sets to create the largest possible cash-in-lieu cost, is unfair and overshoots the purpose of this program. **The City Council can ensure this will not happen by instructing staff and BCHA to:**
  - a. **Use an appropriate data set of the Council’s choice (*several options are shown in the table below*) to determine the market rate median price in Ketchum for community housing,**
  - b. **Use a household size of 3 persons to reflect the likely true 2021 size of Ketchum households (i.e. greater than 2.5 persons for 2021).**
  - c. **Not add an administrative fee, for which there is no basis, to the calculation, and which, at the rate of over \$75,000 per 900 square feet of community housing, is egregious.**
  - d. **The following table highlights various tranches of the trailing twelve months of homes sales in Ketchum, with the median market price of those homes shown, as well as the *actual* median home size and median cost for HOA monthly dues. NOTE – For each tranche of homes there were enough homes sold in Ketchum (61 to 115 depending on the set of homes considered) during the last twelve months to offer far more opportunity for investment into actual community housing homes than available funds will allow:**

Actual Statistics - TTM Homes Sold in Ketchum				
Comparable Market Price	Median Price	Median Size	# of Homes	
			Sold	HOA \$/mo
\$0 to \$1,000,000	\$595,000	1,008	115	\$300
\$0 to \$900,000	\$574,000	960	106	\$278
\$0 to \$800,000	\$530,000	913	98	\$275
\$0 to \$700,000	\$494,700	856	85	\$270
\$0 to \$600,000	\$429,000	713	61	\$263





**From:** [Amanda Breen](#)  
**To:** [Lisa Enourato](#)  
**Subject:** Fwd: Proposed Housing Fee Changes  
**Date:** Wednesday, October 13, 2021 8:08:37 PM

---

Public comment

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

---

**From:** Bill Banta <bill.banta@gmail.com>  
**Sent:** Wednesday, October 13, 2021 6:10:18 PM  
**To:** Amanda Breen <ABreen@ketchumidaho.org>  
**Subject:** Proposed Housing Fee Changes

Dear Amanda,

I am a local property owner and have been trying to attract talent and build my business in the Ketchum area since relocating here five years ago. I currently own a home and live full time in Ketchum. Myself, and several other local small business owners, are in the design process to build an office space where all of our businesses can grow and add to our local economy. The majority of our office ownership (all local residents) currently has to rent space in Ketchum that is quickly becoming too small, with rents that are too high, limiting future growth. Ketchum is currently an area with limited high-quality office options, making the local area less appealing than other mountain towns.

The proposed housing fee increase to \$646 per square foot will have a drastic effect on our office plan, along with other projects in the design process, and hinder the ability for any of us to develop local business. Our office project would make a permanent home for over 50 local employees, with good paying jobs that enable people to make a career, and live comfortably in our valley.

While I think the housing-in-lieu-of-funds approach has merit, it may be time to re-assess the financial impacts to see how, and if, this regulation is delivering sustainable housing solutions. It is hard to draw a clear line between the funds collected and long-term affordable housing options since I moved to the area. I ask the city council members to take a closer look at the fee increase proposal and to make a thorough review before proceeding with any fee increases. If funds raised to date are not clearly delivering the long-term, affordable housing solutions needed in the valley, the local community may benefit from alternative solutions.

Sincerely,

Bill Banta  
Ketchum Property Owner

**From:** [Neil Bradshaw](#)  
**To:** [Harry Griffith](#)  
**Cc:** [Jim Slanetz](#); [Courtney Hamilton](#); [Michael David](#); [Amanda Breen](#); [Jade Riley](#); [Suzanne Frick](#); [Morgan Landers](#); [Abby Rivin](#); [Adam Crutcher](#); [Tara Fenwick](#)  
**Subject:** Re: SVED Comments on in-Lieu Fee Proposal  
**Date:** Sunday, October 17, 2021 8:55:50 PM

---

Thanks Harry  
This will be submitted into the public record  
Thanks for your participation in this process  
Cheers  
Neil

**NEIL BRADSHAW | CITY OF KETCHUM**

**Mayor**

P.O. Box 2315 | [480 East Ave. N. | Ketchum, ID 83340](#)  
o: 208.727.5087 | m: [208.721.2162](#)  
[nbradshaw@ketchumidaho.org](mailto:nbradshaw@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

On Oct 17, 2021, at 8:26 PM, Harry Griffith <[harry@sunvalleyeconomy.org](mailto:harry@sunvalleyeconomy.org)> wrote:

SVED has reviewed the proposed new in-lieu fee structure proposed by Ketchum staff and do not support the analysis or recommendations.

We believe the calculation methodology is flawed based on:

1. Use of median TTM figure of \$1.086m (methodology should be based on lower sales price cut-off)
2. Use of 15% admin fee (this is a double count and should be 0%)
3. Use of median unit size of 1,267 sf (this parameter should be circa 1,000 sf)
4. Use of 2 BR unit category (this should be 3 BR based on BC median HH size)

We also believe that the process for application is flawed based on:

1. Limited time for public input to the analysis and process
2. Submittal of BCHA recommendation not authorized by their Board
3. Proposal to take the full new in-lieu fee increase all at once
4. Potential application of any new in-lieu fees to projects currently under discussion with P&Z but lacking permits

There are likely to be serious unintended consequences should Ketchum adopt this proposal as currently structured.

SVED would ask that council reject this proposal and remand staff to come up with an alternative methodology and process better reflecting market forces and the public interest.

**Harry Griffith**

Executive Director, Sun Valley Economic Development

[www.SunValleyEconomy.org](http://www.SunValleyEconomy.org)

**From:** [Hayden Seder](#)  
**To:** [Participate](#)  
**Subject:** Housing fees  
**Date:** Friday, October 15, 2021 5:33:08 PM

---

Hello,

I think the proposal for raising the in-lieu housing fee is a great solution. You have my full support!

--

Hayden Seder  
Freelance writer and editor  
208.720.3164  
P.O. Box 3896 | Ketchum, ID| 83340  
[www.haydenseder.com](http://www.haydenseder.com)  
[www.the-wild-woman.net](http://www.the-wild-woman.net)

**From:** [H Boyle](#)  
**To:** [Participate](#)  
**Subject:** Public Comment for City Council Meeting 10/18/21  
**Date:** Friday, October 15, 2021 10:43:57 PM

---

Agenda Item 1.

While Ms Leer is to be applauded for volunteering for public service, who is Jill LEER? Is this the Jill LEAR who lives in Hailey? ( She is quite talented, in my opinion).

The information provided in the packet appears insufficient for a council member to vote on the candidate in an informed manner. How was she recruited? Who else applied? Is everyone already familiar with the candidate's qualifications? Does she have any potential conflicts of interest?

This person will get to vote on how Ketchum taxpayer money is spent. She could be with us for 6 years. Seems like it's worth knowing a bit about the person you are asked to approve.

Item 3.

Last week it was money to the Democratic Party buried in the payables. This week it's.....sandwiches!

Is it an appropriate use of the LOT to be spent on staff appreciation lunches?

From the City Website:

“The LOT money remains in Ketchum and is invested in a wide range of City services and economic development initiatives that benefit local residents and businesses in accordance with the allowable uses approved by voters. Those uses include: municipal transportation, open space acquisition and recreation, capital improvements, emergency services, city promotion, visitor information and special events, property tax relief, and direct costs to collect or enforce the tax.”

Item 4.

In the staff memo, it does not reflect that Whiskeys will sell wine. Yet the application states that they will sell wine. The total fee of \$598.71 seems to have no basis in the specific charges for each of the license for beer, wine and liquor. Those categories add up to \$760, yet that number is crossed out and \$598.71 is written in.

Also shouldn't applications that take a signature require a printed name, as well?

Similar situation on the La Cab license. Fee does not match fee schedule.

Item 6. Typo in the Resolution title—I'll let you find it.

Item 24.

I sent in an email to “participate” asking what the change in fees notice in the paper was all about, and the response was it would be in the agenda packet. That was a non-response. So I thought it might be some de minimus fee.

Now I see that the answer I got prevented me from knowing what you were cooking up until the Friday before a Monday meeting. I did get a leaked copy on Thursday. How are some members of the public favored with that kind of information before other members of the

public?

This could be one of the biggest things the council decides this year. While the public gets a whopping 3 minutes per person to comment, the impact of this bears a lot more than 3 minutes of input. Like, what will this do to the hole in the ground?

The last bullet of the staff memo is not substantiated with current data. The data included was from 2016. Maybe they were in a bit of a rush? Interesting timing to do this right before the election.

See you Monday,

Perry Boyle  
Ketchum

**From:** [Jay R. Emmer](#)  
**To:** [Jay Emmer](#)  
**Cc:** [Amanda Breen](#); [Courtney Hamilton](#); [Michael David](#); [Jim Slanetz](#); [Participate](#)  
**Subject:** Re: In-Lieu Fee Resolution  
**Date:** Friday, October 15, 2021 2:49:28 PM

---

Council-People,

I see that the in-lieu fee proposal was modified to \$584/sf (down from \$646). I still strongly oppose increasing the per square foot in-lieu fee to that level for the same reasons stated in my earlier email.

Thank You,

Jay

Please excuse any typos, this was sent from my iPhone

On Oct 15, 2021, at 11:20 AM, Jay Emmer <[jay.r.emmer.1@gmail.com](mailto:jay.r.emmer.1@gmail.com)> wrote:

Council-People,

As a Ketchum resident, tax-payer, stake-holder and voter for more than 27 years I am writing to inform you that I am strongly opposed to the resolution that addresses the in-lieu fee for the City of Ketchum as follows from the agenda:

24. ACTION ITEM: FY22 Proposed Fee Adjustments, as submitted by Jade Riley, City Administrator. a. ACTION ITEM: Recommendation to update the City of Ketchum Community Housing In-Lieu Fees. b. ACTION ITEM: FY22 Proposed Fees and Charges.

I feel that the methodology for the 271% increase/adjustment as outlined in pages 274-291 of the meeting packet is significantly flawed, needs additional analysis and review, and should be subject to additional public comment and analysis.

I thank you in advance for taking the time to consider the input of a constituent.

Have a good weekend.

Thank you,

Jay

Jay R. Emmer  
1-208-720-4282  
502 Broadway Blvd.  
Ketchum, ID  
83340



**From:** [Jay R. Emmer](#)  
**To:** [Jay Emmer](#)  
**Cc:** [Amanda Breen](#); [Courtney Hamilton](#); [Michael David](#); [Jim Slanetz](#); [Participate](#)  
**Subject:** Re: In-Lieu Fee Resolution  
**Date:** Friday, October 15, 2021 2:49:28 PM

---

Council-People,

I see that the in-lieu fee proposal was modified to \$584/sf (down from \$646). I still strongly oppose increasing the per square foot in-lieu fee to that level for the same reasons stated in my earlier email.

Thank You,

Jay

Please excuse any typos, this was sent from my iPhone

On Oct 15, 2021, at 11:20 AM, Jay Emmer <[jay.r.emmer.1@gmail.com](mailto:jay.r.emmer.1@gmail.com)> wrote:

Council-People,

As a Ketchum resident, tax-payer, stake-holder and voter for more than 27 years I am writing to inform you that I am strongly opposed to the resolution that addresses the in-lieu fee for the City of Ketchum as follows from the agenda:

24. ACTION ITEM: FY22 Proposed Fee Adjustments, as submitted by Jade Riley, City Administrator. a. ACTION ITEM: Recommendation to update the City of Ketchum Community Housing In-Lieu Fees. b. ACTION ITEM: FY22 Proposed Fees and Charges.

I feel that the methodology for the 271% increase/adjustment as outlined in pages 274-291 of the meeting packet is significantly flawed, needs additional analysis and review, and should be subject to additional public comment and analysis.

I thank you in advance for taking the time to consider the input of a constituent.

Have a good weekend.

Thank you,

Jay

Jay R. Emmer  
1-208-720-4282  
502 Broadway Blvd.  
Ketchum, ID  
83340

**From:** [Courtney Hamilton](#)  
**To:** [Participate](#)  
**Subject:** Fwd: Objection to Housing Fee Increase  
**Date:** Friday, October 15, 2021 8:20:16 AM  
**Attachments:** [Letter to the Ketchum City Council.pdf](#)

---

Get [Outlook for iOS](#)

---

**From:** Sanborn, Reid <reid.sanborn@evrealestate.com>  
**Sent:** Friday, October 15, 2021 12:06 AM  
**To:** Courtney Hamilton  
**Subject:** Objection to Housing Fee Increase

Council Member Hamilton,

Please find my attached letter opposing the drastic increase to the Housing In Lieu of Fees for new developments in Ketchum that you will review Monday evening. I am not opposed to a fee increase, but believe the lack of transparency from the planning department, speed at which this proposal is getting to the council for a vote, and data used in the methodology for calculation is unacceptable.

Please reach out with any questions. I am more than willing to donate my time and expertise to help with this subject and help the city find the best path forward.

--

Thank you,

Reid Sanborn, MBA  
Designated Broker & Partner  
Development Services Advisor

**Engel & Völkers, Sun Valley**  
EVSU Real Estate, Licensee of Engel & Völkers U.S. Holdings, Inc.  
291 North First Ave  
Ketchum, Idaho 83340  
USA  
Mobile: +1 208-720-8244  
Tel: +1 208-928-7223  
Fax: +1 208-928-7275  
Internet: [www.reidsanborn.evusa.com](http://www.reidsanborn.evusa.com)  
Mailto: [Reid.Sanborn@evrealestate.com](mailto:Reid.Sanborn@evrealestate.com)

This e-mail and any attachments are confidential. If you are not the intended recipient of this e-mail, please immediately delete its contents and notify us. This email was checked for virus contamination before being sent - nevertheless, it is advisable to check for any contamination occurring during transmission. We cannot accept any liability for virus contamination.

October 14, 2021

Reid Sanborn  
291 N 1st Ave  
Ketchum, ID 83340

City of Ketchum City Council  
PO Box 2315  
480 East Ave N  
Ketchum, ID 83340

Dear Ketchum City Council Members,

I am writing in regards to the proposed increase in the City of Ketchum's Housing in Lieu of Fees. I am a local business owner, property owner, developer, Broker, Past President of the Sun Valley Board of Realtors, Sun Valley Planning and Zoning Commissioner, and United States Veteran. I am not against an increase in the fees, but strongly disagree with the methodology in the city's calculation process, lack of transparency with stakeholders, and firmly believe that any change to the fees should be applied to future projects that have not spent massive amounts of money on the current assumptions, especially those that have been waiting patiently in the city planning department for approvals.

As a Broker, Member, Past President of the Sun Valley Board of Realtors, and someone who rents out properties to employees well below market value, including a member of your new planning department staff, I believe the method in which the data was used is far from the intent of the fee. The city's data includes numbers from homes which absolutely do not accurately represent a community housing unit. The figure of \$646 per square foot is currently higher than it costs to build a comparable property and outside the intent of the fee. I would ask that the Council please look at actual, comparable data to base your decision on. I encourage the Council to work with the experts in our community that have the waves of data supporting an appropriate number to find a solution and not kill development in Ketchum. If you halt development no one collects funds or gets housing units built as was the case from 2008 to 2016.

Furthermore, this fee will prevent more commercial use buildings and we currently have a lack of office, retail, and commercial space for local business owners to grow and expand. Demand has forced rents through the roof and local businesses are having a hard time making rent fit into their budget. This fee will completely kill opportunities for development of commercial buildings that will allow businesses to grow and thrive in our community adding to a strong, vibrant, and diverse local economy. A strong look at building type and use should be discussed and considered by the Council prior to adoption.

The funds collected go into an account, but what are the funds actually used for? You should ask the planning department how many units have been purchased by the funds since its inception. The only data I can find on the in lieu of funds spent is on the Ketch Building sidewalk and a couple extra deed restrictions for units on site. I strongly encourage the council to look into new programs that deliver on a promise of housing before implementing drastic changes. Your community has entrusted you with

making good decisions and to be a good steward of the money collected, this is not representative of that.

As a developer, I currently have three projects in the Ketchum City Core that would be directly affected by this change. My team submitted two of the projects in April of 2021, we were repeatedly told the city staff was overworked, understaffed, and to jump over hurdle after hurdle with the planning department to get feedback, a timeline, and even just a response. All the while, Planning and Zoning commission meetings were canceled or only had a single project/CUP on the agenda. For the planning department being so overloaded and unable to process applications, they somehow had time to put this proposal together without being transparent about their agenda.

Currently, one of our projects has passed the design review process and is waiting on building and grading permits. The second project on the agenda for the next meeting in October because the October 12th meeting was canceled. So far all projects that have gone through the planning and zoning commission passed with unanimous votes. The third project is a commercial building to provide office space for local companies and is preparing to submit for pre-app design review. We have spent hundreds of thousands of dollars on the projects, millions on the land, and have done everything the city has asked of us, yet here we are approaching winter with little to show for it and with zero mention by the staff of a possible change to the fee structure during the process. Had the city been transparent, we may have designed something different, but it wasn't, and now we face a direct and drastic financial impact from our local government.

I am in favor of continually updating the in lieu of housing fees as per the original intent, but a last minute proposal which will financially harm those still waiting on the planning department is absolutely wrong. If you vote to change the fees on Monday, I first urge you to first look at the process for the calculation with the industry experts to understand how this impacts the local economy and building community. Second, look into how these funds are spent and what impact they actually have. Finally, if you must vote on this issue Monday, then you should make an exemption for all projects and future projects that have purchased land, spent money on design and engineering, or reached out to the city for a meeting to let them know a project is in the planning process under the current assumptions. These projects could have a sunset, 1st of January 2022, in which they must submit for a permit, design review, or pre-app design review to continue under the current fees structure. Any project after this date would be subject to the new fee structure and have the necessary time to reassess their projects before spending millions of dollars. This is only fair to avoid undue financial harm as the planning department is unable to timely process applications, permits, and schedule meetings and has admittedly stated the same.

I am always willing to help and give back to my community and my goal has always been to make Ketchum a better place to live and work. I would be happy to meet with all of you at any time to discuss further. Please don't hesitate to reach out.

Sincerely,

Reid Sanborn  
208-720-8244  
Reidsanborn@gmail.com

**From:** [Sue Petersen](#)  
**To:** [Participate](#)  
**Subject:** Housing  
**Date:** Friday, October 15, 2021 10:32:19 AM

---

In regard to the housing situation: how about more space for trailer/mobile home parks? They can be attractive, eg; Mountain Meadows. Sue Petersen

Sent from my iPad

**From:** [Wolfgang Dieterich](#)  
**To:** [Participate](#)  
**Subject:** Cracking down on short term rentals  
**Date:** Friday, October 15, 2021 2:26:34 PM

---

## Ketchum Needs to Crack Down on Short Term Rentals

Affordable housing is the number one problem in the Wood River Valley, but some things we can't change. It's a highly desirable place to live surrounded by land we can't develop, and building luxury condos will always be more profitable than local workforce housing.

Other things we can change. What's the lowest hanging fruit in our housing crisis? Cracking down on short-term rentals.

An important distinction: It's one thing for hosts to rent their primary residence during peak season, this doesn't subtract from the available housing stock, and is not my concern. It's another to own a portfolio of Airbnbs, occupying units that could otherwise be used to house locals.

1. **Short term rentals or STRs take up housing stock.** over 1000 units are actively rented in Ketchum and Sun Valley on Airbnb and VRBO according to AirDNA, a market research platform for STR investors. 434 of these units are full-time rentals (or available 180+ days a year).
2. **STRs drive up property and rental prices.** According to multiple studies in other cities, short term rentals have increased rents and housing prices. There's a reason so many cities (Chicago, San Francisco, Santa Monica, even Sandpoint, Idaho) have instituted quotas, steep taxes, and requirements that hosts are primary residents of the unit.
3. **STRs aren't taxed nearly enough.** Ketchum taxes STRs at only 3%. This is lower than Sandpoint, McCall, and Hailey. But even raising the tax to 25% won't solve the problem, it's still more profitable than long-term rentals. The median return on STRs is \$3,500 a month according to AirDNA.
4. **STRs are a very lucrative business and investors have taken notice.** Of the available rentals on Airbnb, how many hosts have multiple listings? How many have 10 or 20? I've seen some hosts with 10 or 20 listings, all 2-3 bedroom condos, the places where working class people used to live. How many hosts are actually investment companies with hundreds of rentals across other resort towns and cities?
- 5.

**Ketchum needs to step up its oversight.** After calling the City of Ketchum they were unable to tell me: how many STR businesses are registered with the City, how many units these businesses have, or how much tax revenue the City collects from STRs. This should all be public information. How can we have confidence that the City of Ketchum is on top of the issue, when they don't know the scope of the problem? How can we be confident that they are even doing the basics, like collecting taxes owed to the City from STRs? Ketchum has the authority to get these answers, but if they're not asking the questions, they must not think this is a problem.

STRs are eating up housing stock, driving up rents, driving up home prices, and the only ones who benefit are investors and tourists. Meanwhile, we struggle to find nurses, restaurant workers, firefighters, teachers, retail staff, and all the other people who provide a functioning community.

- Wolfgang Dieterich, Ketchum



**From:** [Participate](#)  
**To:** [Morgan Landers](#)  
**Subject:** FW: in lieu fee increase  
**Date:** Thursday, October 14, 2021 3:07:10 PM

---

**SUZANNE FRICK | CITY OF KETCHUM**

PLANNING AND BUILDING | KURA DIRECTOR  
P.O. Box 2315 | 480 East Ave. N. | Ketchum, ID 83340  
o: 208.727.5086 | m: 208.721.2765  
[sfrick@ketchumidaho.org](mailto:sfrick@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

---

**From:** Steve Kearns <[steve@kmvbuilders.com](mailto:steve@kmvbuilders.com)>  
**Sent:** Thursday, October 14, 2021 9:33 AM  
**To:** Courtney Hamilton <[CHamilton@ketchumidaho.org](mailto:CHamilton@ketchumidaho.org)>; Participate <[participate@ketchumidaho.org](mailto:participate@ketchumidaho.org)>; Amanda Breen <[ABreen@ketchumidaho.org](mailto:ABreen@ketchumidaho.org)>; Michael David <[mdavid@ketchumidaho.org](mailto:mdavid@ketchumidaho.org)>; Jim Slanetz <[jslanetz@ketchumidaho.org](mailto:jslanetz@ketchumidaho.org)>; Neil Bradshaw <[NBradshaw@ketchumidaho.org](mailto:NBradshaw@ketchumidaho.org)>  
**Subject:** in lieu fee increase

Mayor Bradshaw and Councilmembers:

We are writing to express our opposition to the amount of increase in the fee-in-lieu that is being proposed by staff. We are not opposed to the fee-in-lieu program, and we would support a modest increase in the dollar per foot amount assessed, but the proposed increase of 171% from \$238/ft to \$646/ft is shockingly excessive and does not comport with the reality of what it costs per square foot to build workforce housing.

We completed the Lofts @ 660 multi-family development this year, which includes a workforce housing unit. The entire project was completed for \$315 per foot. The workforce unit was not downgraded from the market-rate units, but it did not include all of the amenities of the market units, so the price per foot for that unit would be even lower. We read the analysis by BCHA staff, and we do not agree with their methodology. To project an affordable home price based on the luxury homes and condominiums that are built in Ketchum is a flawed analysis. Our experience building both proves this. I can guaranty that the Bluebird project will not cost \$646/ft. The fee-in-lieu needs to approximate the actual cost of building affordable units. And, by the way, there is no justification given for a 15% administration fee - staff says administrative and soft costs are often 20% of construction costs - but there is no support for this.

In the Financial Impact section of the staff report it is stated that raising the fee by this proposed amount may increase the balance in the fund. What it doesn't say is that raising the fee this much risks stifling new development, and thus halting contributions to the in-lieu fund.

We absolutely agree that workforce housing is a problem we all need to address. But development

did not solely create the the problem, and the development community should not have to shoulder the cost of solving it. We want to do our part, but it is a community problem, and we should seek community solutions, not putting all the burden on one sector.

Finally, with respect to the Effective Date of whatever fee increase you may impose, we request that you adopt Option B and exempt all projects that have filed complete planning applications. It is not fair to those who have developed their pro formas based on the current fees to almost triple them in the last stages of an approval process that has taken far too long.

Respectfully,

Steve Kearns for KMV Builders

**KMV Builders, Inc.**  
**131 West 6th Street**  
**P. O. Box 3233**  
**Ketchum, ID 83340**  
**208-726-4843 Tel**  
**208-726-5863 Fax**  
**208-720-0843 Cell**

**From:** [Morgan Landers](#)  
**To:** [Morgan Landers](#)  
**Subject:** FW: Proposed Housing Fee Changes  
**Date:** Thursday, October 14, 2021 3:22:11 PM

---

On Oct 13, 2021, at 6:10 PM, Bill Banta <[bill.banta@gmail.com](mailto:bill.banta@gmail.com)> wrote:

Dear Neil,

It was great meeting you at Christopher Lyle's house a few weeks ago. I hope you and your son had a great time on your college visit.

I am a local property owner and have been trying to attract talent and build my business in the Ketchum area since relocating here five years ago. I currently own a home and live full time in Ketchum. Myself, and several other local small business owners, are in the design process to build an office space where all of our businesses can grow and add to our local economy. The majority of our office ownership (all local residents) currently has to rent space in Ketchum that is quickly becoming too small, with rents that are too high, limiting future growth. Ketchum is currently an area with limited high-quality office options, making the local area less appealing than other mountain towns.

The proposed housing fee increase to \$646 per square foot will have a drastic effect on our office plan, along with other projects in the design process, and hinder the ability for any of us to develop local business. Our office project would make a permanent home for over 50 local employees, with good paying jobs that enable people to make a career, and live comfortably in our valley.

While I think the housing-in-lieu-of-funds approach has merit, it may be time to re-assess the financial impacts to see how, and if, this regulation is delivering sustainable housing solutions. It is hard to draw a clear line between the funds collected and long-term affordable housing options since I moved to the area. I ask the city council members to take a closer look at the fee increase proposal and to make a thorough review before proceeding with any fee increases. If funds raised to date are not clearly delivering the long-term, affordable housing solutions needed in the valley, the local community may benefit from alternative solutions.

Sincerely,

Bill Banta  
Ketchum Property Owner

**From:** [Participate](#)  
**To:** [Morgan Landers](#)  
**Subject:** FW: Letter against approving the current recommendation for revised city of Ketchum Housing in-lieu Fees  
**Date:** Thursday, October 14, 2021 3:07:05 PM  
**Attachments:** [Housing in Lieu modified fees - letter.pdf](#)

---

**SUZANNE FRICK | CITY OF KETCHUM**

PLANNING AND BUILDING | KURA DIRECTOR  
P.O. Box 2315 | 480 East Ave. N. | Ketchum, ID 83340  
o: 208.727.5086 | m: 208.721.2765  
[sfrick@ketchumidaho.org](mailto:sfrick@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

---

**From:** Daniel Hollis <daniel@hp-architects.com>  
**Sent:** Wednesday, October 13, 2021 4:19 PM  
**To:** Courtney Hamilton <CHamilton@ketchumidaho.org>; Amanda Breen <ABreen@ketchumidaho.org>; Michael David <m david@ketchumidaho.org>; Jim Slanetz <jslanetz@ketchumidaho.org>; Participate <participate@ketchumidaho.org>  
**Cc:** Sanborn, Reid <reid.sanborn@evrealestate.com>; Steve Kearns <steve@kmvbuilders.com>  
**Subject:** Letter against approving the current recommendation for revised city of Ketchum Housing in-lieu Fees

Good afternoon Councilor's,

First of all, thank you for your time and services to the community. I have written a letter (attached) underlining why I am against the recommended fee revision for the City of Ketchum Housing in-lieu fees. I am not against the reviewing and possibly raising the fees but I am against the number that city staff has come up with. Please review my letter as it affects two projects that we submitted in April of this year when my client had already based buying the lots and proforma numbers on the existing Housing in-lieu fees. There was no warning that the city was thinking about raising the fees. Please consider my opinion of continuing the proposal until a later date when more detailed information can be obtained to be able to that amount.

I look forward hearing your responses on Monday night. Thank you for your time.

Regards,

***Daniel P. Hollis***

**Hollis Partners Architects, AIA, NCARB, LEED AP BD+C**

Office: 208.721.7160  
220 River Street E.  
Ketchum, Idaho 83340  
Mail: PO Box 1769 Sun Valley, ID 83353

[www.hp-architects.com](http://www.hp-architects.com)

CONFIDENTIAL COMMUNICATION -This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.



PO Box 1769 [post]  
Sun Valley, ID 83353  
220 River Street, East  
Ketchum, ID 83340  
v / 208.721.7160

**13<sup>th</sup> October 2021**

**City Councilors**

City of Ketchum – Council  
P.O. Box 2315  
480 East Ave. N.  
Ketchum, ID 83340

Dear City Councilors,

I am writing to you in regards to the latest recommendation to update the City of Ketchum Community Housing In-Lieu Fees. This would adversely affect two of the projects I have designed for Reid Sanborn located in the CC district. Let me start by saying that I'm not against reviewing such an option, but the calculation on the number is severely off in regards to the \$646/sf number. These figures need to be looked at further. My issue also is that this has come out of the blue in the last two weeks and could be very detrimental to the projects we have had full design work down by numerous consultants at huge costs to my client.

I will give you some history on my two design projects (780 1<sup>st</sup> Avenue Multifamily and 760 N Washington Mixed Use project. We started work on both of these projects in the middle of December 2020, working under premise of the current city code for Community Housing in-Lieu fees of \$238/sf which my client ran all of his proforma numbers based on these.

I originally reached out to Abby Riven and then City Planner, Brittany Skelton on January 10<sup>th</sup> about a possible introduction to the 780 1<sup>st</sup> Multifamily project. I usually like to get the city involved early in the design so we get feedback that helps our design with the project. This is the same process I do with any jurisdiction I work in, Hailey, Bellevue, County or Sun Valley. We like to consider the city planners part of our team who we collaborate with not work against. We had continual meetings or email correspondence through until we submitted our Pre-Ap Design Review package on April 9<sup>th</sup>. We also did the same process with our 760 N Washington Ave Mixed Use project. That project was submitted for Pre-Ap Design Review on April 22<sup>nd</sup>. We finally received contact from the city that Morgan Landers was going to be working with us on the projects through the design review process on May 26<sup>th</sup> but the 780 1<sup>st</sup> Ave Project only received its first "Incomplete Letter" on June 7<sup>th</sup> and then with numerous other submittals we presented to the commission on July 13<sup>th</sup> for Pre-Ap Design Review which we were approved unanimously through to the next step of Final Design. Which we presented and were approved to submit building permit on September 21<sup>st</sup>.

We love working with Morgan (associate city planner) through the process, but throughout the process we were always wondering why it had taken so long but now we know why. We had never been told that the city might have been working on this revised fee. It felt like the city had been stalling on all commercial projects but we were never privy to any information that the city had been working on. City heads kept on using the excuse that the city was inundated with more work than ever in regards to DR / Permit submittals but as you can see from the hearing agenda that I have attached that was not the case in regards to items on the action agendas for Planning & zoning hearings.

I am the Vice Chair of Sun Valleys planning and zoning commission. During this year, we have seen an increase in submittals at the planning and zoning level. Some times we would receive binders containing 300+ pages to review for our bi-monthly P&Z hearings, so our staff (similar) size to Ketchum's were keeping up with the submittals without diminishing city process. Most of these projects that were presented to us had lawyers present so both staff and commissioners needed to be on our toes to make sure we followed set protocols to review, react and approve/continue or object to. For the city to say they were so busy when you can see in my spreadsheet attached to review and hear projects was a little troublesome and made the public feel like something else was going on behind closed doors. Stalling projects to make them pay extra is not the right way to go about it, whatever the new fee number is.

Since March 9<sup>th</sup> of this year the City of Ketchum has had 12 P&Z hearings with another 3 cancelled due to not enough items on their agenda. Within those meetings there were 27 Action items on the agenda, 21:24 hours of meetings where 17 projects were approved (there might have been few more approved but information from the September 21<sup>st</sup> meeting has not been posted yet). Compared to Sun Valley, in the same time, there were 13 meetings, there were 62 Action items reviewed, 22:09 hours spent in meetings and 43 projects approved. This comparison was done to show that the city of sun valley was just as busy during the same time frame and city staff was still able to review and report on projects without neglecting the city's process and exposing themselves for litigation.

In regards to this new fee number of \$646/sf, how was this number actually derived? I'm hearing it is based on numbers from 6,000sf stand alone houses? Maybe its not but these numbers need to be looked at from the commercial core. I have worked on two successful multifamily projects located in the downtown precinct, one being the 27,000 Onyx Project which was completed in October of 2020 at \$355/sf and then our 12,129 Lofts @ 660 1<sup>st</sup> Avenue project, which included a 615sf affordable housing unit, which might I add was submitted for Pre-App Design Review June 27<sup>th</sup>, 2019 and we broke ground on November 3<sup>rd</sup> and received the approved building permit on November 14<sup>th</sup> which is 140 days through the city process. Whereas the 780 1<sup>st</sup> Ave project mentioned previously will be around 205 days if we receive the approved permit on November as mentioned via email from Suzanne Frick. That Lofts @ 660 project construction costs were \$301.67/sf. Even if you add \$100-150/sf to current day costs that would only be in the realm of \$400-450/sf and that's not taking into account that we usually factor a lower \$/sf cost for affordable housing units. The \$646 figure needs to be reviewed and revised accordingly.

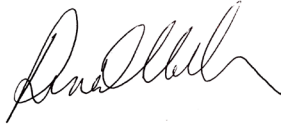
It would only be fair to those projects that have been in the design review and permitting pipeline that are affected by the housing in-Lieu fees be set at the original city code standards of \$238/sf, as this was the number that the developer had factored in the original proforma numbers and purchasing of the lots.

I hope the information listed above helps you make a decision to table this recommendation until further thought process has gone on in obtaining the right number for the housing in-lieu fee. The timeframe for processing submittals listed is merely to show that more projects could have & should have been reviewed in the schedules mentioned. These show evidence of possible stalling by the city so that this new fee program could be adopted.

I will attend the meeting via zoom on Monday night and will be interested to hear the council's thoughts?

Thanks for taking the time to read this supporting documentation.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Hollis", with a stylized flourish at the end.

Daniel Hollis, Principal





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Review and Provide Feedback on Draft Short-Term Rental Ordinance**

#### Recommendation and Summary

In June, City Council directed staff to investigate a standalone license program for short-term rentals (STRs) with new regulations (*see attachment #1*). Staff will have a short presentation that will outline key policy discussion items. Once the Council has provided feedback, staff will schedule the ordinance for first reading and public hearing.

#### Introduction and History

During the June 21, 2021, City Council meeting, the City Attorney reviewed the following potential elements that could be included in a new short-term rental ordinance based upon state law and examples from the cities of McCall and Sandpoint.

In 2017, the Idaho Legislature adopted legislation that sets forth limitations on the ability of counties and cities to regulate STRs. Most particularly, this legislation, now Idaho Code §67-6539, prevents a city from prohibiting STRs. The open question still remains as to what extent STRs can be regulated.

#### *Idaho Code §67-6539*

*67-6539. LIMITATIONS ON REGULATION OF SHORT-TERM RENTALS AND VACATION RENTALS. (1) Neither a county nor a city may enact or enforce any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals in the county or city. A county or city may implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate. A short-term rental or vacation rental shall be classified as a residential land use for zoning purposes subject to all zoning requirements applicable thereto. (2) Neither a county nor a city can regulate the operation of a short-term rental marketplace.*

IC 67-6539 makes clear that the City cannot outright prohibit STRs within city limits. Less defined is what amount of regulation would be proscribed as constituting a “practical effect of prohibiting” STRs. To date, there has not been further legislation or judicial analysis clarifying where the boundaries might be drawn on such regulation.

Additionally, IC 67-6539 makes clear that STRs are to be generally treated as a residential land use for zoning purposes. This means that STRs cannot be regulated by limiting them only to areas of non-residential zoning (one of the more popular approaches in the early days of STRs).

As the Council reviews options for potential STR regulations, the key finding that should be considered is how the regulations are “necessary to safeguard the public health, safety and general welfare ...” including how to “protect the integrity of residential neighborhoods.” IC 67-6539.

Two Idaho cities that have been at the forefront of STR regulations after the adoption of IC 67-6539 are the City of McCall and the City of Sandpoint. Both cities have generally adopted a permit/license process as the procedural mechanism for STR regulations.

*City of Sandpoint Key Provisions:*

- STR permit required, tied to LOT to ensure collection of LOT
- Definition of STR that explicitly states that temporary shelters (such as RVs, tents) are to be used as an STR
- In residential zones, two-night minimum stay and only one STR per parcel
- Maximum of 35 non-owner occupied STRs across all residential zones within the City, with exceptions for STRs approved within PUDs or multi-unit developments meeting certain standards (primarily tied to proximity to tourism areas)
- Permits only valid for one year and tied to specific property owner (not tied to property itself)
- Inspection required for permit to verify certain health/safety standards
- Local representative/contact required
- Infraction-based enforcement policy

*City of McCall Key Provisions:*

- Permit/business license required, tied to LOT permit to ensure collection of LOT
- Conditional use permit approach for any STR with occupancy of 20+ guests. CUP addresses factors such as parking, access, noise, neighborhood impacts, and health and safety
- Room occupancy limits on all STRs
- Noise and health/safety requirements, including posting of such on premises
- Identification and provision of contact information for a property manager

Sustainability Impact

No direct impact. Increased inventory of long-term rentals does decrease the amount of auto trips as local workers are closer to their place of employment.

Financial Impact

Depending on final new costs associated with the new program (software, increased staffing), the Council will need to determine a reasonable license fee in relation to proper cost recovery.

Attachments:

1. Draft ordinance
2. Fire/building regulations

**CITY OF KETCHUM  
ORDINANCE 1230**

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, ADDING A NEW CHAPTER 9 OF TITLE 5 OF KETCHUM MUNICIPAL CODE ENTITLED SHORT-TERM RENTAL PERMITS; PROVIDING A PURPOSE; DEFINING KEY TERMS; ESTABLISHING REQUIREMENTS FOR OWNERS AND OPERATORS; CREATING STANDARDS TO OBTAIN A SHORT-TERM RENTAL PERMIT; REGULATING HIGH OCCUPANCY SHORT-TERM RENTALS; PROVIDING FOR VIOLATIONS, INFRACTIONS, PENALTIES, AND ENFORCEMENT; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**Recitals:**

- A. The City is authorized to exercise its powers to “maintain the peace, good environment and welfare.” Idaho Code §§50-301 and 50-302(a).
- B. The City is authorized to “implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate.” Idaho Code §67-6539.
- C. The significant growth of short-term rentals within the City has created a need for reasonable regulations so as to protect the health, safety, and welfare of short-term rental guests, as well as neighboring property and the public.
- D. A permitting system provides a reasonable regulatory approach to seek to balance the operation of short-term rentals with the health, safety, and welfare impacts upon guests, neighbors, and the public.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Ketchum, Blaine County, Idaho:

**SECTION 1:** That a new Chapter 5.09 of Title 5 of the Ketchum City Code is created to read as follows:

Chapter 5.09  
SHORT-TERM RENTAL PERMITS

- 5.09.010: Purpose
- 5.09.020: Definitions
- 5.09.030: Permit Requirements
- 5.09.040: Standards
- 5.09.050: High Occupancy Standards
- 5.09.060: Violations and Enforcement

**5.09.010: Purpose:** Short-term rentals provide additional tourism opportunities and economic impacts, but also increased impacts on guests, neighbors, and the public. The purpose of this chapter is to provide the City with reasonable regulatory procedures to protect the health, safety

and welfare of short-term rental guests, neighboring residents, and the public. These regulations are further intended to protect the integrity of neighborhoods in which short-term rentals operate.

**5.09.020: Definitions:**

**LOCAL REPRESENTATIVE:** An area property manager, owner, or agent of the owner, who is readily available to respond to guest and neighborhood or City questions or concerns.

**OWNER:** The person or entity that holds legal and/or equitable title to the private property.

**OWNER-OCCUPIED:** Where the owner of a dwelling unit resides on the parcel for a minimum of six (6) months out of a calendar year. Homeowner-occupied tax-exempt status may be considered to be proof of homeowner occupied status for the purposes of this chapter.

**SALE/TRANSFER:** Any change of Owner, whether for consideration or not, during the term of the permit.

**SHORT-TERM RENTAL (STR):** Any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, or owner-occupied residential home that is offered for a fee and for thirty (30) days or less.<sup>1</sup>

**5.09.030: Permit Requirements.**

- A. Compliance Responsibility: An Owner may act through an agent or property manager, but the Owner shall remain responsible for compliance with these provisions.
- B. Declaration of Compliance: An Owner is required to complete the application, including completing the declaration that the Short-Term Rental complies with all of the requirements within this chapter and those that may be required by the City as indicated on the application.
- C. Permit Required: No person shall operate or manage, or offer or negotiate to use, lease or rent a dwelling unit for Short-Term Rental occupancy within the City without obtaining and maintaining a Short-Term Rental (STR) Permit.
- D. Permit Application: The City shall prepare and make available an application form for a STR Permit reflecting appropriate information, standards compliance, and fee as may be established in the City's fee schedule.
- E. Permit Term: An STR Permit shall be valid for a period of one year from issuance and may be annually renewed. A permit shall expire upon end of its one-year term or upon a sale/transfer of the property.
- F. Permit Applicability: A permit shall be applicable to the designated dwelling unit to be used as a STR. The permit shall be issued to and in the name of the Owner; and a change in Owner, such as by sale/transfer, shall require a new permit.
- G. Occupancy Tax: STRs must comply with the requirements of Ketchum Municipal Code 3.12.030, Imposition and Rate of Certain Nonproperty Sales Taxes.
- H. Existing STRs: Short-Term Rentals in existence prior to the effective date of this ordinance shall be provided a grace period of **one-year** from the effective date in which to obtain a permit according to the standards of this chapter.

---

<sup>1</sup> IC 63-1803(4).

- I. Residential Zones: Within residential zones, Short-Term Rentals shall have a minimum two (2) night stay and shall be limited to one Short-Term Rental per parcel.

**5.09.040: Standards:**

1. Issuance: The issuance of a Short-Term Rental permit shall be subject to the following standards:

- a. Declaration:

- i. At the time of application for a new Short-Term Rental permit, the applicant must declare that the dwelling unit complies with all of the standards set forth in this chapter. If any of the below items are not complete, the applicant must make any necessary adjustments to the dwelling unit prior to submitting the application for permit.
- ii. For renewals, applicants shall be required to submit an affidavit affirming continued compliance with the standards set forth in this chapter by completing a City provided self-inspection checklist.
- iii. The minimum standards required for all Short-Term Rental dwelling units, are set forth below. The City retains the ability to add to requirements as necessary, as will be stated on the permit application, to provide for the health, safety, and general welfare of both the citizens of the community and the temporary occupants of the Short-Term Rentals.
  1. Windows: Bedroom windows shall be operable to allow for emergency egress in accordance with the most recent building and fire codes as adopted and amended by the State of Idaho.
  2. Smoke Alarms: Single or multiple-station smoke alarms shall be installed and maintained in accordance with manufacturers specification:
    - a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
    - b. In each room used for sleeping purposes.
    - c. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
  3. CO Detectors: A CO detector is required on each floor if: there is a garage, solid fuel appliance or gas appliance.
  4. Fire Extinguishers: The Short-Term Rental shall be equipped with one 2A:10BC type extinguisher per floor. Fire extinguisher(s) shall be mounted in visible locations with the tops of the fire extinguishers mounted between three feet (3') and five feet (5') above the floor, and shall be accessible to occupants at all times.
  5. Local Representative:

- a. Each Short-Term Rental shall list a local representative who permanently resides within twenty (20) vehicular miles of the Ketchum city limits.
  - b. If the City is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation of this chapter.
  - c. The designated local representative may be changed by the permit holder from time to time throughout the term of the permit. However, to change the local representative, the permit holder must file a revised permit application that includes the name, address and telephone number of the new local representative. Failure to notify the City of a change in the local representative constitutes a violation of this chapter.
  - d. For non-owner-occupied Short-Term Rentals within the residential zones that do not meet the standards of this chapter, property owners and/or residents within two hundred feet (200') of the dwelling shall be provided with the name and telephone number of the owner or the local representative. The permit holder shall provide documentation to the City of this notification and list of the owners and/or residents contacted.
6. Permit Posting: The Short-Term Rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:
- a. The name of the local representative and a telephone number where the representative may be reached;
  - b. The name and a telephone number where the property owner can be reached;
  - c. The telephone number and website address of the City of Ketchum;
  - d. The maximum number of occupants permitted to stay in the dwelling;
  - e. The solid waste and recycling collection day; and
  - f. The Ketchum snowplowing regulations.
2. Inactivity: License issuance and continued validity for non-owner-occupied Short-Term Rentals shall be contingent upon the owner's good faith effort to actively engage in the rental of the property. Failure to provide documentation of rental activity for a minimum of twelve (12) nights during a twelve (12) month period, pro-rated quarterly, prior to the Short-Term Rental permit renewal deadline shall constitute an immediate forfeiture of the license
- i. A signed declaration affirming that the property will be managed to adhere to the following requirements:
    - 1. Parking: all parking for the unit is contained on the site and not more than one (1) parking space per bedroom is provided. All

trailers shall be parked on a surfaced area, if space is provided, and shall not park on the right-of way.

2. Occupancy: Short-Term Rentals shall contain no more than four (4) people per bedroom. Total maximum occupancy of the Short-Term Rentals shall be based on the number of bedrooms times four (4) people per bedroom.
3. Noise: Quiet hours from 10 pm to 8 am the following day are enforced.
4. Trash Service: Bear proof solid waste collection facilities shall be available on the site and adequate for the occupancy of the short-term dwelling unit.

**5.09.050: High Occupancy Standards:**

- A. A permit for a Short-Term Rental with an occupancy of 20 or more guests shall comply with the general standards and findings for approval of a conditional use permit as set forth in Title 17 and the standards for all Short-Term Rentals set forth in this Chapter.
- B. The use of the dwelling unit as a Short-Term Rentals shall not have greater impacts than would be created by long term occupancy of the dwelling unit including the following:
  1. Access: The access and ingress to the site shall maintain safe conditions for pedestrians and vehicles and shall be adequately sized and designed so that access to other properties is not impacted or unsafe conditions on public streets are created.
  2. Parking: Improved surface areas on the site shall be the minimum necessary to provide adequate parking for the occupancy.
  3. Noise: Loud music, outdoor activities or any other source of noise that can be heard beyond the perimeter of the Short-Term Rental premises shall not be generated during the hours of 10:00 p.m. to 8:00 a.m. the following day.
  4. Health and Safety: The building is designed to accommodate the occupancy expected. Smoke, propane gas and carbon monoxide detectors shall be installed and maintained.
  5. Exterior Changes: No exterior changes shall be made to the structures or site conditions that would eliminate its appearance or use as a dwelling unit for long term residency.
  6. Use Restrictions: A copy of the use restrictions (occupancy, number and location of parking spaces, restrictions on RV parking, solid waste collection, quiet hours and noise restrictions, outdoor activity restrictions) as imposed through the conditional use permit, and the name and phone number of local representative and property owner shall be posted within the Short-Term Rental dwelling unit for user reference. The Short-Term Rental shall not be used for special events (i.e. weddings, wedding receptions).
- C. Neighborhood Impacts: a communication strategy with neighbors within 300' of the Short-Term Rental regarding any complaints shall include:
  1. The contact information of the property representative to serve as initial contact if there are questions or complaints regarding the operation of the Short-Term Rentals, and
  2. A copy of the conditions of approval.

- D. Application Requirements: In addition to the STR Permit application, the following submittals are required prior to the noticing of a public hearing before the Ketchum Area Planning and Zoning Commission:
1. A basic site plan that indicates the location of on-site parking;
  2. An operations plan;
  3. A communication strategy;
  4. A stormwater management plan, if there are changes to the site; and
  5. A declaration identifying the date and location of the neighborhood meeting and a roster of the persons attending.

**5.09.060: Violation; Infraction; Penalty:**

The following conduct shall constitute a violation for which the penalties and sanctions specified in this section may be imposed:

- A. Violations:
- a. The occupants of the dwelling have created noise, disturbances, or nuisances, in violation of City Code.
  - b. Violations of law pertaining to the consumption of alcohol or the use of illegal drugs.
  - c. The owner has failed to comply with the standards of this chapter.
- B. Penalties:
- a. For the first two (2) violations within a twelve (12) month period, the sanction shall be a warning notice.
  - b. For the third violation within a twelve (12) month period, the sanction shall be a revocation of the permit.
  - c. Additional penalties as may be provided for by the specific violation in other sections of City Code shall remain applicable.
- C. Written Notice: The City shall provide the permit holder with a written notice of any violation of this section that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.
- D. Appeal of Suspension or Revocation: Pursuant to this section, the City shall provide the permit holder with a written notice of the permit suspension or revocation and the reasons. The permit holder may appeal the suspension or revocation under the same process as an administrative appeal under Ketchum Municipal Code 17.144.
- E. Application for Permit After Revocation: A person who has had a Short-Term Rental permit revoked shall not be permitted to apply for a subsequent Short-Term Rental permit for a period of **one year** from the date of revocation.
- F. Infraction: Unless otherwise provided, any person who shall commence or continue to operate a Short-Term Rental for which a permit is required without first procuring the permit shall be deemed guilty of an infraction and subject to a fine of one hundred dollars (\$100.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- G. Advertisement of Short-Term Rental: An advertisement promoting the availability of Short-Term Rentals property in violation of this Code is prima facie evidence of a violation and may be grounds for denial, suspension or revocation of a license. Advertising that offers a property as a residential Short-Term Rentals shall constitute prima facie evidence of the operation of a residential Short-Term Rentals and the burden of proof shall be on the



owner, operator, or lessee of record to establish that the subject property is being used as a legal residential Short-Term Rentals or is not in operation. Any communication by a property owner, manager, operator, or lessee to any person where the owner, manager, operator, or lessee offers their home for rent as a residential Short-Term Rentals shall constitute prima facie evidence of the operation of a residential Short-Term Rentals and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal residential Short-Term Rentals or is not in operation. Other evidence of the operation of a residential Short-Term Rentals without a valid permit number may include, but is not limited to: guest testimony, rental agreements, advertisements, and receipts or bank statements showing payments to the owner by a guest.

**SECTION 3: REPEALER.** All previous ordinances, resolutions, orders, or parts thereof, that are in conflict herewith are hereby repealed.

**SECTION 4: SAVINGS AND SEVERABILITY.** It is hereby declared to be the legislative intent that the provisions and parts of this ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 5: EFFECTIVE DATE.** This ordinance shall be in full force and effect after its passage, approval and publication, according to law.

PASSED BY THE CITY COUNCIL of Ketchum, Idaho this \_\_\_\_ day of \_\_\_\_\_ 2021.

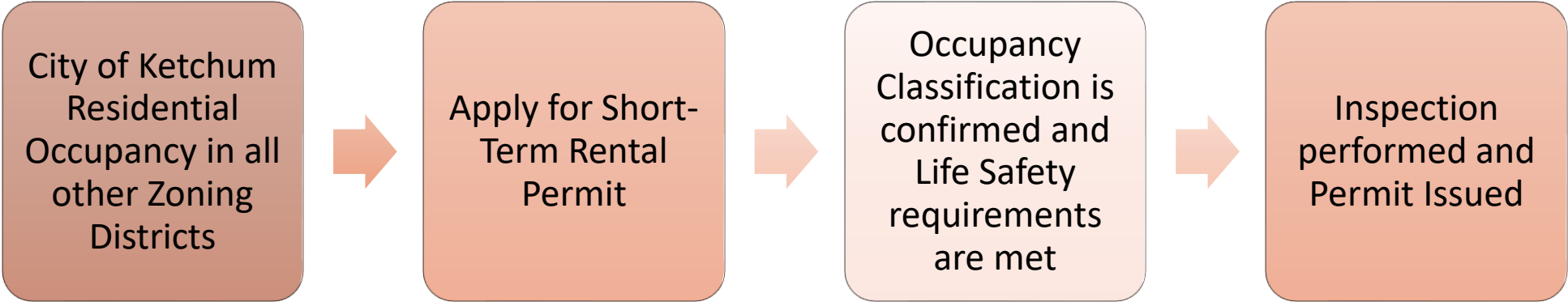
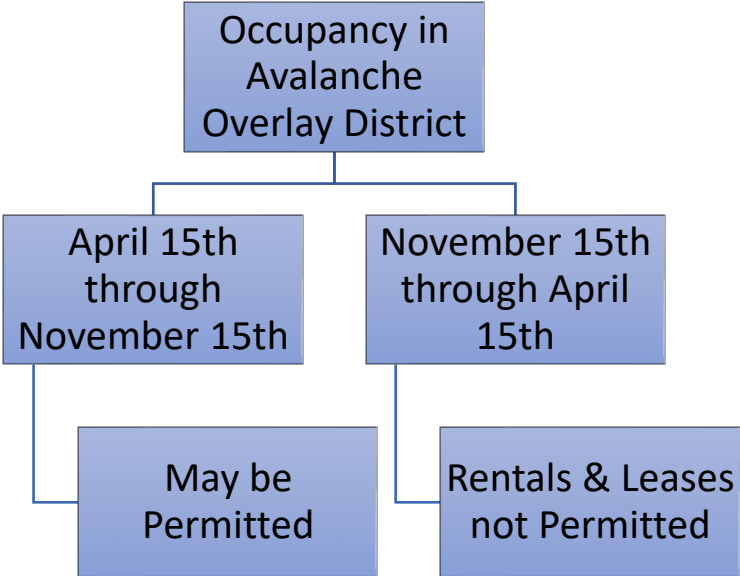
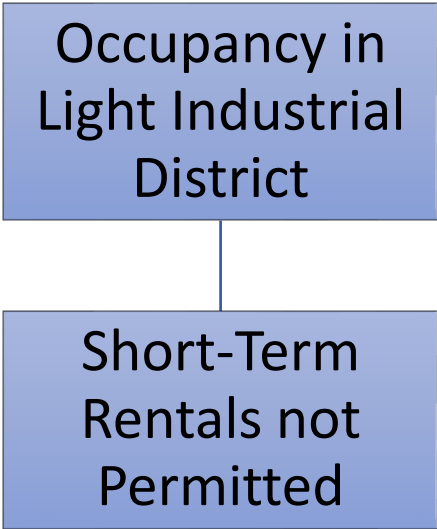
APPROVED BY THE MAYOR of Ketchum, Idaho this \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Neil Bradshaw, Mayor

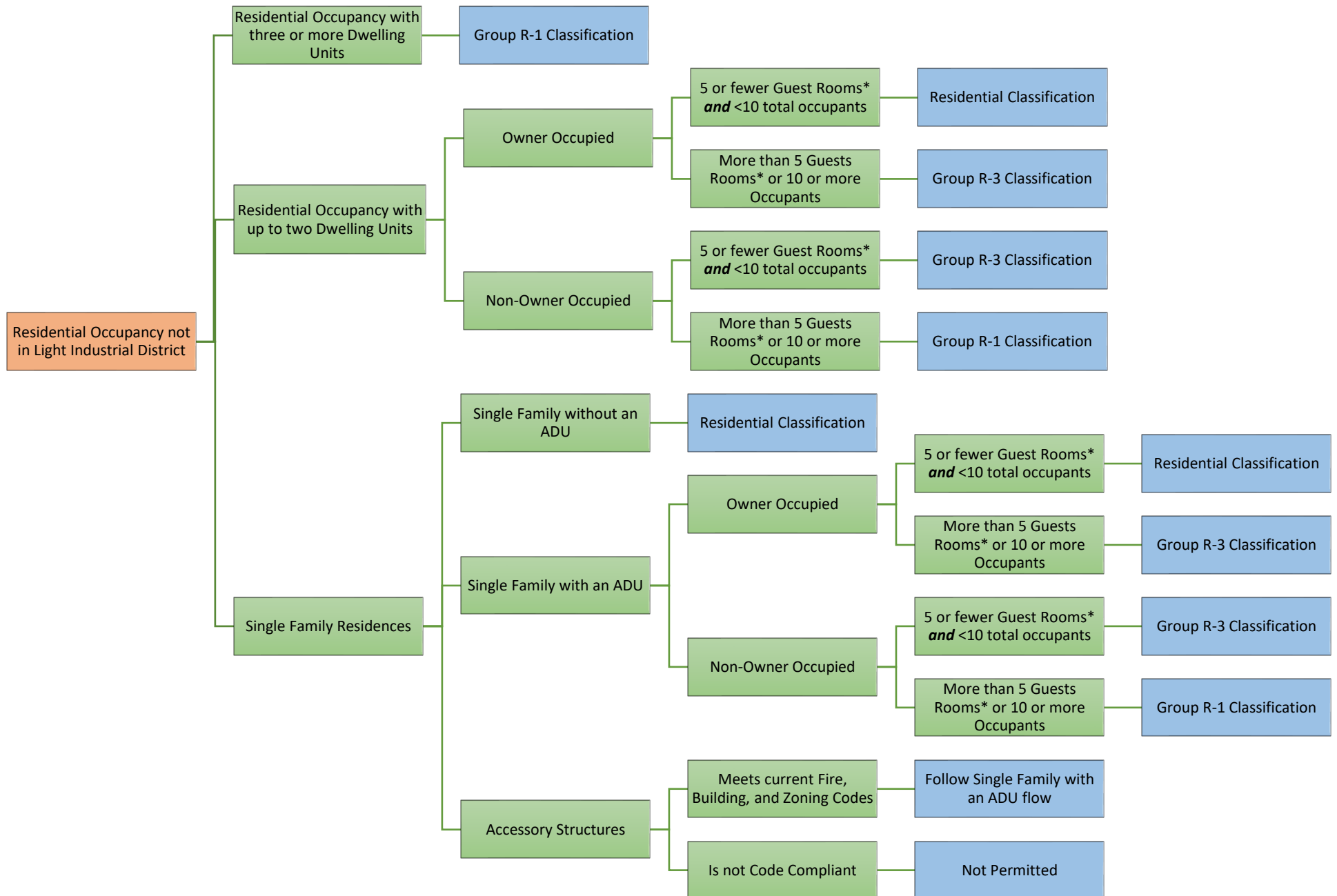
**ATTEST:**

\_\_\_\_\_  
Tara Fenwick, City Clerk

Short-Term Rental Permitting Flow



## Occupancy Classification Flow Chart



\*Guest Room: A room used or intended to be used by one or more guests for living or sleeping purposes.

## Short Term Rental Classification for Fire and Building Code

- Short term rentals are not specifically identified in code
  - o They are rather defined by the terms, transient or non-transient, in relationship to the primary nature of the residents of an occupancy.
- Short Term Rentals most closely align with one of the following Occupancy Classifications
  - o Residential Group R-1
    - Defined as “occupancies containing sleeping units where the occupants are primarily transient in nature”.
    - Motels and Hotels also fall into this category.
  - o Residential Group R-3
    - Building that do not contain more than two dwelling units
    - Townhomes and Duplexes typically fall into this category
  - o Residential
    - Defined as “one and two-family dwellings”.
    - Includes owner-occupied lodging houses with 5 or fewer guest rooms and 10 or fewer occupants.
- IBC defines transient as
  - o “Occupancy of a dwelling unit or sleeping unit for not more than 30 days”

The less familiar an occupant is with a building; the more life safety code requirements are placed on that building. In addition to familiarity, density drives more stringent life safety code requirements.

Idaho tax code seems to support the transient classification of short-term rentals as well. The State’s tax code for lodging is labeled the “Hotels, Motels, and Short-Term Rental Tax Code” and referred to on the State’s web site as “residences rented for a fee for 30 days or less”.

### Quote from Fort Collins web site

***Short Term Rentals (STR’s) are currently only allowed in single-family dwellings. This includes property line townhomes, otherwise known as single-family-attached homes. STR’s are not allowed in multi-family R-2 buildings. R-2 buildings are apartment or condo buildings with 3 or more dwelling units on a single property. The Building Code considers the STR use of the condo/apartment building to be too risky for the renters who are not familiar with the space and trying to exit.***

**Occupancy Classification when used as a Short-Term Rental**

<b>Group R-1 Occupancy</b>	<b>Group R-3 Occupancy</b>	<b>Residential Occupancy</b>
Buildings with three or more Dwelling Units	Buildings with up to two dwelling units	Single-Family Residences & Owner Occupied STRs in buildings with up to two dwelling units
One Hour vertical and horizontal fire separation throughout building (Exit corridors, floors, walls, etc.)	One Hour vertical and horizontal fire separation between units (common wall)	Normal Residential fire separations
IBC compliant exits, exit signage, and exit illumination.	IBC compliant exits	No exit signs required
Adequate Exits per story of building height, and occupant load restrictions (More restrictive)	Adequate Exits per story of building height, and occupant load restrictions (Less restrictive)	One Exit to exterior per 10 occupants, occupant load restrictions (Least restrictive)
Fire Sprinklers throughout - Meet the requirements of NFPA 13	Fire Sprinklers throughout - Meet the requirements of NFPA 13	Fire Sprinklers Required at 6,000sq/ft - Meet the requirements of NFPA 13
NFPA Compliant alarm notification Devices in STR units	Standard audible notification devices	Standard audible notification devices
Constantly Monitored Fire & CO Detection System throughout building	Constantly Monitored Fire & CO Detection System throughout building	Constantly Monitored Fire & CO Detection System throughout building
Adequate fire extinguishers per NFPA Code - Every Stair way landing and with 75' of travel to all locations in building	Adequate fire extinguishers per NFPA Code - One per kitchen and one per garage	Adequate fire extinguishers per NFPA Code - One per kitchen and one per garage
Posted Fire & Life Safety plan and property representative available to respond 24hrs a day within 4 hours.	Posted Fire & Life Safety plan and property representative available to respond 24hrs a day within 4 hours.	Posted Fire & Life Safety plan and property representative available to respond 24hrs a day within 4 hours.
Additional requirements to be ADA compliant	Additional requirements to be ADA compliant	Additional requirements to be ADA compliant

Darker color indicates more restrictive code requirements

! = More restrictive than non-STR property

**Local Occupancies currently listed on VRBO.com**

**Occupancies with three or more dwelling units**

Buildings that don't meet current R-2 or R-3 codes and would be difficult to change to R-1

Andora Villas – Built before fire sprinklers were required. Multiple dwelling occupancy and no centrally monitored fire detection system or notification devices.



Wildwood Condos – Built before fire sprinklers required. Does have monitored fire detection system but only for common areas. All units exit into interior central corridors and would be difficult to meet R-1 code standards.



Buildings that meet current R-2 Codes and would be easier to change occupancy classifications to R-1

Christoph Condos – Meet current sprinkler requirements, has monitored fire detection system, all exits are on exterior corridors and be easier to meet R-1 code standards.



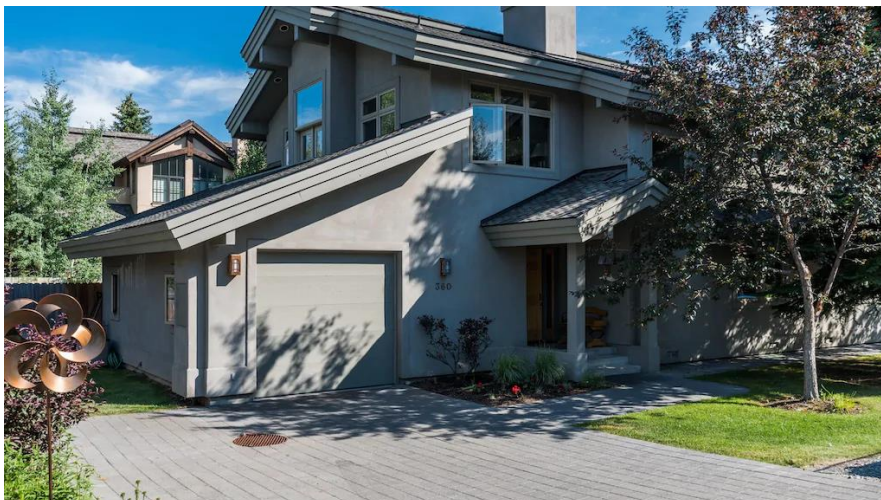


### Group R-3 Occupancy (Townhomes) Examples

Townhomes with fire detection systems would be more easily updated to meet current R-3 Codes.

Townhomes where an owner occupies one half of the building would be considered owner occupied and classified in the less restrictive residential ranking. These buildings would not need to be retrofitted with sprinklers.

#### Owner occupied Townhome



Townhome with fire sprinklers



### Single Family Residences (with and without ADUs)

This classification includes stand-alone single-family homes, homes with ADUs, and Owner-Occupied Townhomes.

Occupancies less than 6,000sq/ft without sprinklers and occupancies larger than 6,000sq/ft with sprinklers could be easily modified to meet the STR code.

Homes with ADUs would need to certify that one of the units is owner occupied or risk being classified as a R-3 occupancy.



Stand-alone, single family Residential Occupancy, currently booked for 22 days in December as listed on VRBO.com.



**STRs not permitted due to extreme life safety hazards in these specific zones**

Not Permitted in the Industrial Zones, or Avalanche Overlay District (November 15<sup>th</sup> – April 15<sup>th</sup>)

**Light Industrial**

125 Lewis St – No fire sprinklers, in a building where numerous light industrial activities could be approved. Lacks appropriate egress and fire separation requirements.

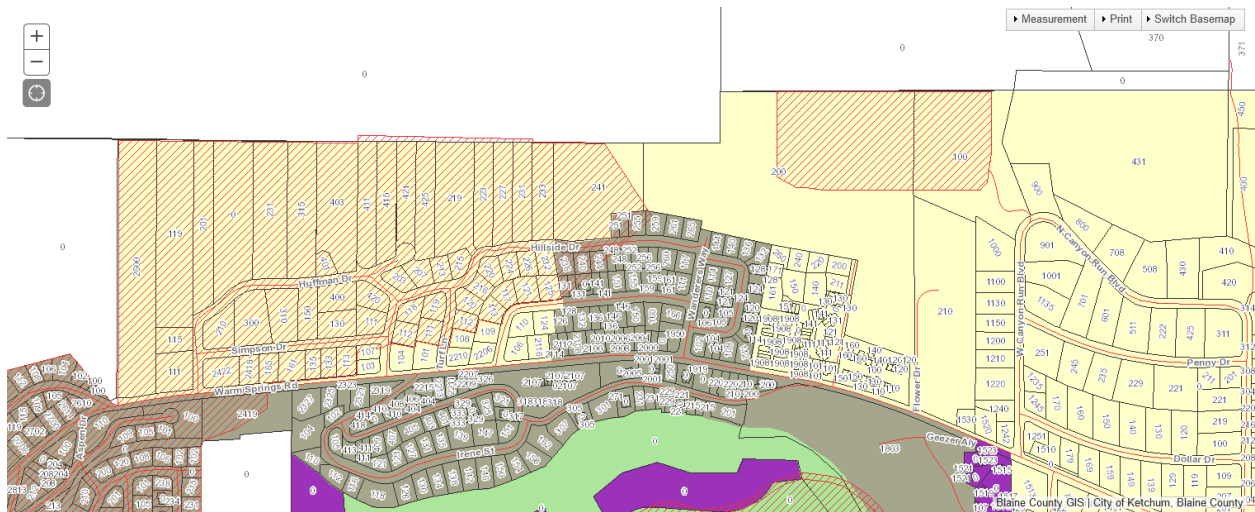


**Avalanche Overlay District**

226 Hillside Dr – Listed on VRBO.com and is currently booked for 16 days in December and 15 Days in February



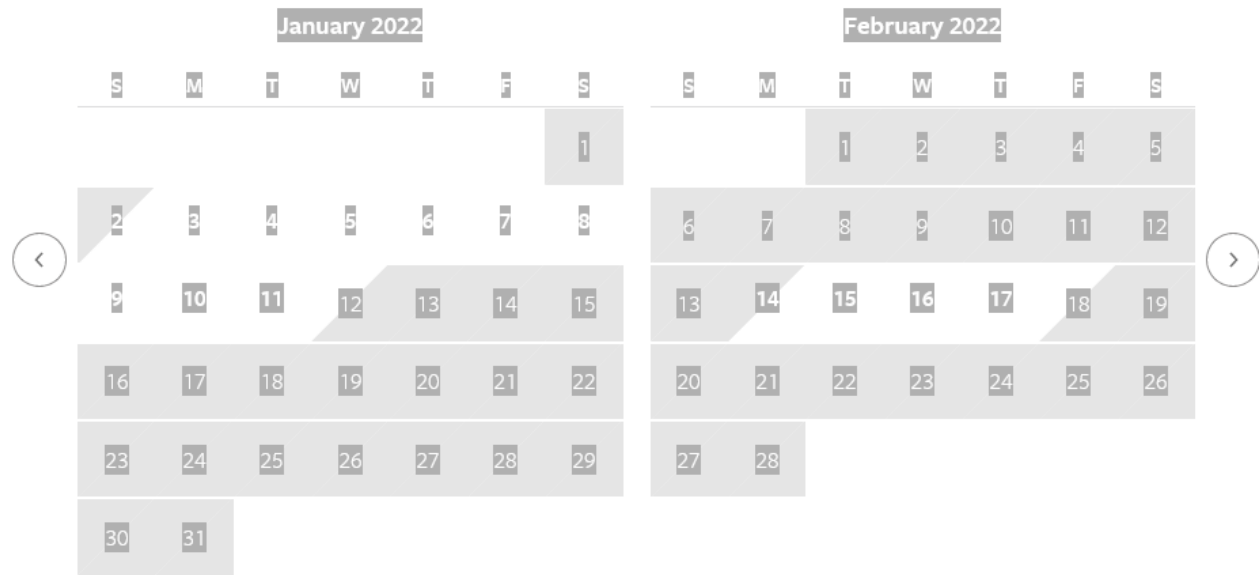
226 Hillside Dr is part of the Avalanche overlay district



320 Sage Rd – May qualify as a R-3 Occupancy (Townhome) and need minimal modifications to meet a potential STR code, but it’s in the Avalanche Overlay District and can’t currently be rented or leased during the winter despite what appears to be an almost completely booked listing on VRBO.com.



## Availability



**Other Code Violations to be worried about (photos from local VRBO listings)**

BBQs on decks with overhangs in multi dwelling occupancies without fire sprinkler coverage



Improper storage of hazardous materials





IN RE: )  
 ) **KETCHUM CITY COUNCIL**  
 ) **DECISION ON REQUEST FOR**  
 Bluebird Village Community Housing ) **RECONSIDERATION**  
 Project, Design Review P21-063 )  
 )  
 )  
 )

This matter was approved by the Ketchum City Council (Council) on October 18, 2021 via adoption of Findings of Fact, Conclusions of Law, and Decision (October 18, 2021 Council Decision). A Request for Reconsideration was submitted on November 1, 2021 by Kenneth Howell of the law firm of Hawley Troxell, representing Susan and Gary Martin, residents at 480 N. Walnut Avenue, Ketchum, Idaho (Requester). The Council’s Decision on the Request for Reconsideration is as follows:

1. This matter and the Request for Reconsideration primarily concerns an application for design review, P21-063.
2. Design review does not constitute a permit or application under the Idaho Local Land Use Planning Act, Chapter 65 of Title 67 Idaho Code (LLUPA). A LLUPA request for reconsideration under Idaho Code §67-6535 is therefore not applicable on a design review decision.
3. Ketchum Municipal Code does not provide for reconsideration of a design review decision.
4. The October 18, 2021 Council Decision is an appropriate and reasoned written statement of the decision of the Ketchum City Council.
5. In addition, the October 18, 2021 Council Decision affirms and at page 5 references and is intended to incorporate the design review approval and written reasoning by the

Planning and Zoning Commission in the *Ketchum Planning and Zoning Commission Findings of Fact, Conclusions of Law, and Decision* of August 24, 2021 (August 24, 2021 P&Z Decision).

6. To the extent necessary, if any, the October 18, 2021 Council Decision constitutes a satisfactory written decision identifying compliance with relevant approval standards and criteria.

THEREFORE, the October 18, 2021 Council Decision is affirmed and the Request for Reconsideration is denied.

A majority of the Council hereby adopts this Decision and authorizes the Mayor to execute the same.

---

Neil Bradshaw, Mayor  
Effective Date: November 18, 2021

A copy of this Decision has been provided to the Requester, Applicant, and the City Attorney, and the original has been retained in the records of this City on this \_\_\_\_ day of November, 2021.

By: \_\_\_\_\_  
Tara Fenwick, City Clerk

KENNETH C. HOWELL  
ADMITTED TO PRACTICE LAW IN IDAHO  
EMAIL: KHOWELL@HAWLEYTROXELL.COM  
DIRECT DIAL: 208.388.4823  
DIRECT FAX: 208.954.5226

November 1, 2021

**VIA E-MAIL: [tfenwick@ketchumidaho.org](mailto:tfenwick@ketchumidaho.org)**  
**VIA FACSIMILE: 208-726-8234**

Tara Fenwick  
Ketchum City Clerk  
480 East Avenue  
Ketchum, Idaho 83340

Re: *Request for Reconsideration of Bluebird Village Community Housing Approval of Findings of Fact, Conclusions of Law and Decision dated October 18, 2021 and related actions*

Dear Mayor Bradshaw and City Council Members:

I write as counsel to Susan and Gary Martin, residents at 480 N. Walnut Avenue, Ketchum, Idaho. On behalf of the Martins, we respectfully request reconsideration of the City Council's October 18, 2021, approval of the Bluebird Village Community Housing Findings of Fact and Conclusions of Law and Decision of that date (the "City Findings"). This approval also included the affirmation of the Planning & Zoning Commission's approval of the Bluebird Village Community Housing Project design and related approval of the development's building height and forth floor consistent with the Commission's Pre-Application Design Review P21-027 and Design Review P21-063 (the "Commission Findings").

This request for reconsideration is made pursuant to Idaho Code § 67-6535, the Idaho Local Land Use Planning Act (LLUPA", codified as Idaho Code Title 67, Chapter 65). Pursuant to Idaho Code § 67-6535, this request is made in writing, is filed with the City Clerk, identifies specific deficiencies in the decision for which reconsideration is sought, and is made within fourteen (14) days of the "final approval" of the above-referenced approval.

The specific deficiencies for which reconsideration is sought are: (1) the City Council's final approved decision failed to explain or document the rationale for the City Council's approval of the Commission's approval of Bluebird based upon the Comprehensive Plan and relevant provisions of the Ketchum Municipal Code ("KMC"). While the City Council "unanimously affirmed" the Commission's approval, it did not adopt any of the Commission's

analysis and provided no analysis of the findings and conclusions by the Commission beyond the statement that it “expressed appreciation for the Planning & Zoning Commission’s review of the project.....” see Findings and Conclusions page 5; (2) The Findings necessary to approve the Commission’s decisions, or the city’s criteria for approval of the 4<sup>th</sup> floor of the Bluebird project, and their completely failure to address any conflicting information and testimony in opposition to such approval; (3) the public hearing process was not impartial and therefore failed to provide for due process; and (4) the members of the Commission and the City Council all had irrevocable conflicts of interest while participating and voting on matters related to property owned by the City of Ketchum.

**The City Council failed to explain or document its review of the Commission action, and its Findings are therefore deficient, erroneous and not in compliance with LLUPA.**

The Commission’s approval of the Bluebird project was entirely and expressly conditioned on the City’s approval of a planned zoning amendment as to setback requirements, and further subject and conditioned upon “final approval” by the City due to the fact that the project contained a fourth floor and otherwise exceeded height and floor area ratio limitations. See Bluebird Village Community Housing Project Design Review (Planning and Zoning Commission) Findings of Fact, Conclusions of Law, and Decision, page 37, items numbered 3 and 4. The City further acknowledged that it was required to make a “final review and approval of the project”. See Bluebird Village Community Housing Project Design Review Findings of Fact, Conclusions of Law, and Decision dated October 18, 2021, page 4.

Despite this clear recognition of its requirement that “all buildings greater than 48 feet or that contain a fourth floor receive final review and approval from the City Council”, the Council’s “Findings Regarding Planning & Zoning Commission’s Design Review Approval” contain no analysis or conclusions regarding the project’s compliance with any of the zoning code’s requirements, and whether the Commission had fully complied with those standards. In fact, the “Findings” regarding the Commission’s actions consist of three short paragraphs. The first paragraph recites the history of the development incentives for maximum floor area and height limitations. The second paragraph is a recitation of the Commission’s findings which appears to be largely taken from the Commission’s own Findings at the Planning & Zoning Commission level. The final paragraph is an expression of gratitude to the Commission for its work. Nowhere do the City’s Findings review the relevant standards and requirements for the Commission’s review, nor does the City discuss or review any of the quantum of evidence or proof relied upon by the Commission to reach its exercise of discretion. In point of fact, the City’s Findings nowhere state that the Commission’s Findings are correct or otherwise acceptable to meet articulated standards of approval. In short, the City’s Findings are simply deficient in that they fail to articulate a “reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record” all as required by Idaho Code § 67-6535 [emphasis added].

**The Public Hearing Process was not Impartial, and the members of the Commission and the City Council all had irrevocable conflicts of interest.**

It has been obvious to the Martins, along with many other members of the community, that the City was highly desirous of approving an affordable housing project in the City, that the City took a convoluted series of steps to make the particular site available (to wit, building a new fire station and moving the locations of City Hall and the Police Station), and, once the current location was made available, considerable City resources, effort and determination was made to engineer approval of this project on that particular site. These incentives have taken the form of outright grants as well as assurances of essentially free conveyances of City property. The economic incentive to maintain a vibrant community fully supported by the employment of individuals in all aspects of the workforce has been repeatedly referenced in the City's and Commission's Findings, and no one realistically doubts the economic contributions to the City, its businesses and tax base as a consequence

As evidenced by items upcoming on the City's hearing agenda, these efforts have not concluded with the approval of the Bluebird project, but continue with consideration of significant economic contributions to the project by essentially gifting City-owned property under the guise of a less-than-nominal lease for many decades. While these efforts call into question an intentional attempt to skirt statutory prohibitions on disposition of municipal property unless done by competitive bidding, they also illustrate the level of the City's commitment to the approval and construction of this project towards the aim, among other things, of economic vitality.

Under these conditions, it is plain why the Commission and the City's Findings omit any discussion of "relevant contested facts" brought to the fore by public comments and submissions. Indeed, aside from a casual mention that public testimony and submissions were in the record and were thus submitted for consideration by the Commissioners and City Council, neither of the Findings provided any discussion or acknowledgement of the many opposing viewpoints – whether they be economic, or related to conditions of approval or community impact. The partiality of the decision-making processes in this case is palpable, and clear.

A significant omission in any of the Findings is the obvious and overwhelming conflict in the City's Planning & Zoning Commission undertaking the approval of a project for a City-owned parcel. This same concern was present when the City Council considered and approved its own project without any mention of the curious conflict. That the Mayor and City Council members all "participated" in the decisions made cannot be denied, just as did each of the members of the Commission.

Idaho Code § 67-6506 prohibits a member of a governing board or commission under conditions giving rise to a conflict of interest. Clearly and unambiguously stated, "[a] member or employee of a governing board, commission or joint commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business

associate or any person related to him . . . has an economic interest in the procedure or action.” Here, the members of the Commission, and the Mayor and the members of the City Council, each had undeclared conflicts of interest by reason of the City’s ownership of the parcel in question, and the City’s express and clear economic interest in seeing the project approved and constructed. Whether the individual City Council or Commission members are deemed the equivalent of the City, or are salaried City employees (for the Mayor and City Council members), it is plain that their economic interests as members of such bodies are the same as the economic interests of the body they compose. The actions of the Mayor, City Council members and Commission members ARE the actions of the City. The economic interest of the City cannot be excised from these proceedings, and the actions of the members of the Commission the Mayor and the City Council are all tainted by that economic interest to such a degree that conflicts of interest should have been declared. The City might have avoided this conflict by complying with Idaho’s public bidding and auction of surplus property requirements, but instead chose to remain as a business partner or associate of the chosen developer.

### **Conclusion**

Owing to the complete failure of the City’s Findings to provide a reasoned statement that explain the criteria and standards considered relevant, to state the relevant contested facts relied upon, and to explain the rationale for the decisions reached based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record as required by Idaho Code § 67-6535, the Martins respectfully request that the City reconsider its Findings of Fact, Conclusions of Law and Decision. Further proceedings and amended Findings should issue to provide reasonable and clear explanations of the criteria and standards relied upon, including a discussion of the relevant contested facts.

Absent the required clarity of rationale in the Findings, it is not possible for the Martins to identify and articulate specific instances of erroneous action. Accordingly, this request for reconsideration is not a comprehensive list of objections, basis for reconsideration, or grounds for reversal on judicial review.

While the Martins believe substantial omissions and errors were made by the Commission and by the City Council, including the failure to consider or address:

- The application and impact of the Dark Sky ordinance on the project;
- The Applicant’s failure to submit complete and accurate site plans showing adjacent landscaping, structures and screening;
- Safety issues and concerns, including those related to emergency evacuation as well as amelioration of the risk of falling ice and snow;
- Adequacy of parking and impact of inadequate parking on businesses in a zone the comprehensive plan reserves for retail use;

- Mitigation and design elements necessary to minimize the mass and height of the development including landscaping and the misrepresentation of landscaping in elevations presented to the public;
- Consistency of standards applied to the Bluebird project when compared to recent decisions on smaller projects in the same zone (such as the Solstice project) which was deemed out of scale and a “domineering” presence in the Community, to the extent that decision-making appears to be entirely arbitrary and capricious;
- The misapplication of city resources where a property worth in excess of \$10 million is not sold pursuant to surplus property public bidding requirements but is instead intended to be leased for virtually free – with the consequence that up to \$20 million in taxpayer resources are being allocated to this project, and to a private, for-profit developer;
- The lack of an RFP for use of this City-owned parcel and other failures to comply with public bidding and arms-length transactions;
- The misrepresentation by the developer and City officials to the public in public meetings, newspaper editorials and advertisements that this project will provide housing for local teachers, firefighters and local workers, when, in fact, no such restriction is proposed (and may not even be possible); to the contrary, anyone meeting income limitations will be able to become a tenant;
- Safety of the project and compliance with ADA requirements and pragmatic concerns due to, among other things, the inadequate elevator capacity of the project as approved;
- Misapplication of the Comprehensive Plan to prioritize workforce housing over the Plan’s intention to preserve the city’s retail core.

Pursuant to Idaho Code § 67-6535(3), the Martins reserve the right to supplement and augment this request for reconsideration, and to include additional facts, issues and arguments in any subsequent Petition for Judicial Review, in the event the City fails to reconsider its grounds of approval.

Cordially,

HAWLEY TROXELL ENNIS & HAWLEY LLP



Kenneth C. Howell

KCH:kch





## City of Ketchum

November 18, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve Ground Lease Agreement #22750 for Bluebird Community Housing Project**

#### Recommendation and Summary

Staff has been working with representatives from both GMD Development and the Ketchum Community Development Corporation (KCDC) regarding a long-term ground lease for the recently approved Bluebird Community Housing Project.

**“I move approval of the ground lease with Ketchum Community Development Corporation (KCDC) for Bluebird Village located at 480 East Avenue in Ketchum.”**

The reasons for the recommendation are as follows:

- City staff presented the draft lease to the City Council during the November 1<sup>st</sup> meeting for initial review and public feedback.
- This lease was contemplated as part of the “Option to Lease #20373 document” initiated and extended between the city and KCDC.

#### Introduction and History

During the October 4<sup>th</sup> meeting, City Council approved the design and associated fourth floor for the Bluebird Community Housing project as recommended by the Planning and Zoning Commission. Findings of Fact and Conclusions of Law were later adopted by the council. At the November 1<sup>st</sup> council meeting, staff reviewed the key policy items feedback:

1. Article 2: Length of lease
2. Article 3: Subsidized lease rate and nexus with period of affordability of units
3. Article 5.6 Ketchum local preference policy
4. Article 5.9: Treatment of commercial space
5. Article 6.1/2 Notification versus approval on sublease and refinancing
6. Article 12 Insurance coverage
7. Article 19.10 Legal proceedings

Staff met with GMD Development and KCDC following the November 1<sup>st</sup> meeting to discuss potential edits to the lease based on the Council discussion:

- City staff is now recommending a 75 - year term versus the original 65 - year term.
- GMD & KCDC provided the following written responses:
  - *There was discussion of the commercial space and its potential use as an office, and then the property management office was mentioned which I think was confusing. The Bluebird Village*

*commercial space cannot be used as offices per the zoning, these are separate and distinct spaces from the housing portion of the project. The project contains a large commercial retail space facing East Ave on the ground floor, and a second smaller commercial retail space facing 5<sup>th</sup> Street East on the ground floor in the back building. In the ground floor entry to the housing portion of the project we do have an onsite property management office which we did obtain a Conditional Use Permit for because of its association with the housing. I hope this clarifies.*

- *The last sentence of Section 5.4 of the lease was mentioned as a potential issue because a Qualifying Tenant could remain a resident at the property even if their household income is higher than the income restriction. All households will go through a rigorous underwriting review with third party employer and income verification before becoming Qualifying Tenants and being permitted to move in. After initial move in there is annual recertification of the household income. If household income increases above the income limitation the household will be allowed to remain a resident. This is an important standard provision of the federal tax credit program and one that cannot be changed. The idea behind it, and reason why the tax credit program has such political and housing advocate support nationally is because it enables households to save for homeownership opportunities.*

The development team is now working with the city regarding their building permit. The city has already formally surplus-ed old city hall and has issued an RFP to select a contractor to complete asbestos remediation, recycle building materials where possible, and then demolish the structure.

#### Sustainability Impact

The availability of community housing in the city limits reduces trip generation associated with local workers.

#### Financial Impact

The current DRAFT lease contemplates a \$10 a year annual lease payment. The reduced rent structure was a key component of local funding match and a major factor in the successful award of federal tax credits by Idaho Housing Finance Association.

#### Attachments:

1. Lease agreement

# **GROUND LEASE**

**by and between**

**CITY OF KETCHUM**  
**an Idaho municipal corporation**  
**(“Owner”)**

**and**

**KETCHUM COMMUNITY DEVELOPMENT CORPORATION**  
**an Idaho nonprofit corporation**  
**(“Tenant”)**

**FOR**

**BLUEBIRD VILLAGE**

**480 East Avenue**  
**Ketchum, Idaho 83340**

**TABLE OF CONTENTS**

ARTICLE 1	LEASE OF LAND.....	1
1.1	Land Restoration.....	1
1.2	Lease .....	1
ARTICLE 2	LEASE TERM .....	2
ARTICLE 3	RENT .....	2
ARTICLE 4	THE PROJECT.....	2
ARTICLE 5	USE OF PREMISES.....	2
5.1	Permitted Uses .....	2
5.2	<del>Covered</del> <a href="#">Affordable Housing</a> Units .....	2
5.3	<a href="#">Community Housing Units</a> .....	2
5.4	<a href="#">Employee Housing Units</a> .....	2
5.5	Qualified Tenants.....	23
<del>5.4</del> 5.6	Income Qualification .....	3
<del>5.5</del> 5.7	Rent <del>Limitation</del> <a href="#">Limit for Affordable Housing Units</a> .....	3
<del>5.6</del> 5.8	Ketchum Preference Policy.....	3
<del>5.7</del> 5.9	Annual Reports .....	3
<del>5.8</del> 5.10	Federal or State Affordability Programs.....	3
<del>5.9</del> 5.11	Commercial Tenants .....	34
<del>5.10</del> 5.12	Prohibited Uses .....	4
ARTICLE 6	SUBLEASE AND ENCUMBRANCE OF LEASEHOLD ESTATE .....	4
6.1	Tenant’s Right to Sublease .....	4
6.2	Tenant’s Right to Encumber .....	4
6.3	Owner’s Rights .....	5
6.4	Notices to Recognized Interest Holder .....	5
6.5	Recognized Interest Holder Provisions.....	5
6.6	Other Miscellaneous Provisions Concerning Leasehold Mortgages .....	7
ARTICLE 7	TAXES.....	7
ARTICLE 8	MAINTENANCE AND REPAIR .....	78
ARTICLE 9	MECHANICS’ LIENS .....	8
ARTICLE 10	CONDEMNATION.....	8
10.1	Interests of Parties on Condemnation .....	8
10.2	Total Taking.....	8
10.3	Partial Taking.....	8
10.4	Allocation of Award .....	9
10.5	Voluntary Conveyance.....	9

ARTICLE 11	ASSIGNMENT.....	9
ARTICLE 12	INSURANCE AND INDEMNIFICATION.....	<del>9</del> <u>10</u>
12.1	Comprehensive Liability Insurance.....	<del>9</del> <u>10</u>
12.2	Fire and Extended Coverage Property Insurance.....	10
12.3	Evidence of Insurance.....	10
12.4	Waiver of Subrogation.....	<del>10</del> <u>11</u>
12.5	Indemnification.....	11
ARTICLE 13	DAMAGE AND DESTRUCTION.....	11
13.1	Tenant’s Duty to Restore Property.....	11
13.2	Option to Terminate Lease for Destruction.....	11
ARTICLE 14	DEFAULTS AND REMEDIES.....	<del>11</del> <u>12</u>
14.1	Defaults.....	<del>11</del> <u>12</u>
14.2	Notice and Right to Cure.....	12
14.3	Remedies.....	12
ARTICLE 15	SURRENDER AND REMOVAL.....	12
ARTICLE 16	HAZARDOUS MATERIALS.....	<del>12</del> <u>13</u>
16.1	Definition.....	<del>12</del> <u>13</u>
16.2	Use of Property by Tenant.....	13
16.3	Indemnification by Tenant.....	13
ARTICLE 17	REPRESENTATIONS AND WARRANTIES.....	13
17.1	By Owner.....	13
17.2	By Tenant.....	<del>13</del> <u>14</u>
ARTICLE 18	NOTICES.....	14
ARTICLE 19	GENERAL PROVISIONS.....	14
19.1	Survival of Indemnities.....	14
19.2	Unavoidable Delay; Force Majeure.....	14
19.3	Interpretation.....	14
19.4	Entire Agreement.....	<del>14</del> <u>15</u>
19.5	Waiver; Amendment.....	<del>14</del> <u>15</u>
19.6	Attorney’s Fees.....	15
19.7	Governing Law.....	15
19.8	Binding Effect.....	15
19.9	Estoppel Certificates.....	15
19.10	Waiver of Trial by Jury.....	15

EXHIBITS

Exhibit A      Legal Description of the Land

**GROUND LEASE  
FOR  
BLUEBIRD VILLAGE  
480 EAST AVENUE  
KETCHUM, IDAHO 83340**

This Ground Lease for Bluebird Village (this “Lease”) is made effective as of the date this Agreement is recorded in the real property records of Blaine County, Idaho (“Effective Date”) by and between City of Ketchum, an Idaho municipal corporation (“Owner”) and Ketchum Community Development Corporation, an Idaho nonprofit corporation (“Tenant”).

**RECITALS**

- A. Owner owns the parcel of land located at 480 East Avenue, Ketchum, Idaho 83353, that is legally described on Exhibit A (the “Land”).
- B. Tenant desires to lease the Land for redevelopment into a mixed-use project with street-level retail, parking, and affordable rental housing units in an energy-efficient building designed to blend into Ketchum’s downtown core, as graphically depicted on Exhibit B (the “Project” or “Bluebird Village”).
- C. Owner has authority, pursuant to Idaho Code § 50-1407, to manage city property and authorize the lease of any real property not otherwise needed for city purposes, upon any terms as the City Council determines may be just and equitable.
- D. Owner, by approval of this Lease, hereby finds that the Land is not otherwise needed for city purposes, that affordable community housing is an important community need, that it is in the best interest of the public to lease the Land to Tenant, and that the terms of this Lease are just and equitable.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties, the receipt and sufficiency of which are hereby acknowledged, Owner and Tenant agree that the foregoing recitals are true and correct and incorporated herein by this reference, and further agree as follows:

**ARTICLE 1 LEASE OF LAND**

1.1 **Land Restoration.** Owner agrees to restore the Land to a vacant “bare ground” state that is ready for development of the Project thereon, including (a) abatement and removal of any Hazardous Materials (as defined in Section 16.1) thereon, if any; (b) removal of any existing structures and other improvements on the Land, including any below-grade elements thereof (such as foundations, footings and utilities; (c) restoration of the surface of the Land to a clear, level and rough graded condition (collectively, the “**Land Restoration**”). Owner agrees to use commercially reasonable efforts to complete the Land Restoration on or before ~~\_\_\_\_\_~~ April 30, 2022. Owner will provide Tenant with a completion notice once the Land Restoration is fully complete and the Land is ready for development of the Project (the “**Completion Notice**”).

1.2 **Lease.** This Lease will be fully effective as of the Effective Date. From the Commencement Date (defined in Article 2), Owner hereby leases the Land to Tenant on the terms hereof. Tenant hereby accepts the lease of the Land from Owner on the terms hereof. Tenant warrants to Owner that Tenant accepts the Land in its as-is condition without representation or warranty from Owner, except as expressly provided in

this Lease. The term “**Leasehold Interest**” refers to Tenant’s interest in this Lease and the leasehold estate and all attendant and appurtenant rights, including without limitation, Tenant’s rights to all improvements to the Land.

## ARTICLE 2 LEASE TERM

The “**Term**” of the Lease will commence on the date that Owner provides the Completion Notice to Tenant (the “**Commencement Date**”) and will expire ~~ninety-nine~~seventy-five (9975) years after the Commencement Date (the “**Expiration Date**”).

## ARTICLE 3 RENT

For the entire Term, the rent due under this Lease is Ten Dollars (\$10), which Owner acknowledges to be paid by Tenant in full as of the Effective Date.

## ARTICLE 4 THE PROJECT

Tenant will cause the Project to be constructed on the Land in accordance with this Lease and applicable law. Once the Project is constructed on the Land, Tenant will (or will require Subtenants to) keep the Project in a state of good condition, maintenance and repair, with ordinary wear and tear excepted. Tenant may alter the Project in any lawful manner, provided that the Project (as altered) complies with the terms of this Lease.

## ARTICLE 5 USE OF PREMISES

5.1 **Permitted Uses.** Owner and Tenant agree that the principal purpose of this Lease is (a) to provide ~~Covered~~Affordable Housing Units (as defined below) for lease to Qualified Tenants (as defined below) for a rent that does not exceed the rent limit ~~(as defined set forth in Section 5.55.7 below)~~ (collectively, the “**Affordability Requirement**”); ~~and (b) to provide Community Housing Units (as defined below) for lease to individuals meeting asset, income and minimum occupancy guidelines approved by the governing housing authority and the City of Ketchum, as ‘community housing’ under the Ketchum City Code (or its successor provisions) (collectively, the “Community Requirement”); and (c)~~ provide ground floor commercial space for retail, restaurant, office, service and similar users for the benefit of the general public. Accordingly, the Land and the Project will be used primarily for the foregoing principal purpose and other uses that may be incidental thereto or in support thereof, and for no other purposes, except as otherwise approved by Owner.

5.2 ~~Covered~~Affordable Housing Units. A “~~Covered~~Affordable Housing Unit” is each residential dwelling unit in the Project that is designated as being subject to the Affordability Requirement, which will be all residential dwelling units in the Project except Community Housing Units and Employee Housing units (if any) Units. Tenant agrees to market, lease and operate the ~~Covered~~Affordable Housing Units on the terms set forth in this Lease.

5.3 Community Housing Units. ~~Tenant may designate up to two (2) dwelling units as “Employee A~~ “Community Housing Unit” ~~provided that the dwelling units are occupied~~ is each residential dwelling unit in the Project that is designated as being subject to the Community Requirement. Tenant agrees to market, lease and operate the Community Housing Units on the terms set forth in this Lease and the requirements of the Ketchum City Code.

5.4 Employee Housing Units. A “Employee Housing Unit” is each residential dwelling unit in the Project that is designated for occupancy by (or are reserved for occupancy by) a residential tenant

family household where at least one person of that family household is a full time employee (30+ hours per week) primarily providing services with respect to and for the Project. Tenant may designate up to two (2) dwelling units as Employee Housing Units.

5.5 ~~5.3~~ **Qualified Tenants.** As used herein, the term “residential tenant” for a Covered Affordable Housing Unit means all persons that lease or occupy the Covered Affordable Housing Unit as a dwelling, whether or not the persons are related. A “**Qualified Tenant**” is any residential tenant family household that meets Tenant’s then-current tenant selection criteria for the Project with a family household income that does exceed the applicable family household income limit of the Applicable Affordable Housing Program (if any is then in effect) or, if no such Applicable Affordable Housing Program is then in effect, then in accordance with the then current applicable family household income limits of the Low Income Housing Tax Credit (LIHTC) program. Nothing in this Lease will require Tenant to lease any Covered Affordable Housing Unit to a residential tenant that does not meet Tenant’s then-current tenant selection criteria for the Project (other than limited income as permitted herein). Nothing in this Lease limits Tenant’s right to enforce the terms of any lease or other agreement with a residential tenant (or any the occupant) in the Project.

5.6 ~~5.4~~ **Income Qualification.** Each Covered Affordable Housing Unit must be occupied (or, if unoccupied, made available for occupancy) by a Qualified Tenant. Tenant will verify that each residential tenant meets the income qualification to be a Qualified Tenant, which verification may be by any reasonable method, including the residential tenant’s production of reasonable evidence of residential tenant’s income and residential tenant’s self-certification that income statements are true and correct in all material respects. Once a residential tenant is verified to be a Qualifying Tenant and leases a Covered Affordable Housing Unit, then the residential tenant will remain a Qualifying Tenant for as long as the residential tenant remains a tenant in the Project.

5.7 ~~5.5~~ **Rent Limit for Affordable Housing Units.** To maintain the Covered Affordable Housing Units as affordable, Tenant will charge monthly rent for each Covered Affordable Housing Unit that does not exceed the applicable rent limit of the Applicable Affordable Housing Program (if any is then in effect) or, if no such Applicable Affordable Housing Program is then in effect, then in accordance with the then current applicable rent limits of Low Income Housing Tax Credit (LIHTC) program ~~(the “Rent Limit”).~~ If at any time during the Term, Tenant is permitted by the Applicable Affordable Housing Program to exceed the ~~Rent Limit~~ foregoing rent limit for an Affordable Housing Unit for any particular residential tenant, then the portion of the rent that exceeds the ~~Rent Limit~~ foregoing rent limit will be paid to Owner. The Commercial Spacespace in the Project is excluded from this provision for the Term of the Lease.

5.8 ~~5.6~~ **Ketchum Preference Policy.** Except to the extent prohibited by any Applicable Affordable Housing Program (defined in Section 5.85.10) or other applicable law, all Covered Affordable Housing Units and Community Housing Units must be leased in accordance with the then current preference policy or ordinance adopted by the City of Ketchum, if any (a “**Ketchum Preference Policy**”).

5.9 ~~5.7~~ **Annual Reports.** After occupancy of the Project, Tenant will provide Owner with a written report (in any form reasonably requested by Owner) by March 1 of each year that provides reasonable evidence that the Covered Affordable Housing Units have been leased (or made available for lease) in compliance with the Affordability Requirement (as applicable) during the prior calendar year.

5.10 ~~5.8~~ **Federal or State Affordability Programs.** Owner and Tenant intend the Affordability Requirement and this Lease to be adjusted as necessary to allow for the Project to fully take advantage of any then available federal, state or local programs for affordable housing. Affordable housing programs include, by way of example and not limitation, the Low Income Housing Tax Credit (LIHTC) program, HOME investment partnership program (HOME), Community Development Block Grants (CDBG)



funding, and the HUD Housing Trust Fund (HTF) program. To the extent that any program requires an amendment or rider to this Lease, Owner agrees to promptly execute any amendment or rider that is reasonably required for the Project to fully participate in the Program. To the extent any element of the Affordability Requirement or this Lease is inconsistent with any federal, state or local state affordable housing program that applies to the Project (or any residential dwelling units therein) (an “**Applicable Affordable Housing Program**”), then the terms of the Applicable Affordable Housing Program will govern over the inconsistent terms of the Affordability Covenant or the Lease.

5.11 ~~5.9~~ **Commercial Tenants.** Tenant may lease the Commercial Space to any party for the occupancy and use thereof (a “**Commercial Tenant**”) provided that (a) the lease is subject to the terms of this Lease; (b) the term of the lease will expire prior to the Term; and (c) the uses allowed in the Commercial Space are limited to office, retail, restaurant, service and similar uses that are open to the general public. Except as restricted by this Lease, Tenant may lease the commercial space in any lawful manner and on any financial terms as Tenant deems appropriate.

5.12 ~~5.10~~ **Prohibited Uses.** Tenant agrees that it will not permit the Land or the Project for (a) any use that constitutes a public or private nuisance in or around the Land; (b) use that violates applicable law; (c) any industrial use; (d) any use related to the service of automobiles or other self-powered machines; (e) any dry-cleaner (or other cleaning service that uses solvents similar to dry-cleaning); (f) any ‘head’ shop or similar operation that sells any paraphernalia related to the use of marijuana, cannabis, tetrahydrocannabinol or other illegal substances; or (g) any use relates to the use, sale, cultivation, manufacture, distribution or marketing of any substance containing any amount of marijuana, cannabis or tetrahydrocannabinol (whether for commercial, medical, or personal purpose) if such activities are prohibited by applicable federal, state or local law (and if the any such activities become lawful under some federal, state or local applicable law, but prohibited by other federal, state or local law, then the such activities will remain prohibited).

## ARTICLE 6 SUBLEASE AND ENCUMBRANCE OF LEASEHOLD ESTATE

6.1 **Tenant’s Right to Sublease.** Tenant may, at any time, sublease all or any portion of the Leasehold Interest (each, a “**Sublease**”) without Owner’s consent, and in that event, the subtenant of the Sublease (each, a “**Subtenant**”) will perform all of Tenant’s obligations under this Lease with respect to the Leasehold Interest subleased under the Sublease (said Leasehold Interest subleased by the Sublease is hereafter called the “**Subleased Property**”). By way of example, if Tenant enters into a Sublease for portion of the Project that has ~~Covered~~ Affordable Housing Units (or that will be developed into ~~Covered~~ Affordable Housing Units), then the Subtenant of the Sublease will be the “Tenant” under this Lease with respect to the Sublease, and any reference herein to Tenant with respect to the Subleased Property will also mean the Subtenant. For clarity, the following leases are not Subleases under this Lease: (a) the lease of ~~a Covered~~ an Affordable Housing Unit, Community Housing Unit or Employee Housing Unit to a qualifying residential tenant thereof; ~~(b) the lease of Employee Housing to an residential tenant that is an employee;~~ and ~~(c)~~ (e) the lease of Commercial Space to a Commercial Tenant. The Sublease must specify that the Sublease is limited to the Leasehold Interest, and must have a stated expiration date which is prior to expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Sublease, together with written notice containing the name and address of the holder Subtenant, to be delivered to Owner within ten (10) days of Tenant’s execution and delivery of the Sublease or Leasehold Mortgage. Subject to the terms of this Lease, a Subtenant may enforce its rights under its Sublease and take possession of the Leasehold Interest subleased under the Sublease (said Leasehold Interest subleased by the Sublease is hereafter called the “**Subleased Property**”), in any lawful way.

6.2 **Tenant's Right to Encumber.** Tenant may, at any time, encumber all or any portion of the Leasehold by deed of trust, mortgage or other security instrument (collectively, "**Leasehold Mortgage**"). Any Leasehold Mortgage of any part of the Leasehold Interest must be expressly subject and subordinate to the terms of this Lease. Tenant covenants to pay the indebtedness secured by any Leasehold Mortgage when the same will become due and payable, and to perform, when the performance is required, all obligations of the mortgagor thereunder. Tenant further agrees not to suffer or permit any default to occur and continue under any Leasehold Mortgage beyond any applicable cure period. The Leasehold Mortgage will specify that the indebtedness is that of Tenant only and is not the indebtedness of Owner and that the lien of the Leasehold Mortgage is limited to the Leasehold Interest. Each Leasehold Mortgage must, by its own terms, have a stated maturity date which is prior to expiration of the Term, and Tenant covenants that it will be so paid and that the Leasehold Interest will be released from the lien prior to the expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Leasehold Mortgage, together with written notice containing the name and address of the holder thereunder (the "**Mortgagee**"), to be delivered to Owner within ten (10) days of Tenant's execution and delivery of the Mortgage to the Mortgagee. Subject to the terms of this Lease, a Mortgagee may enforce its rights under its Leasehold Mortgage and succeed to the Leasehold Interest encumbered by the Leasehold Mortgage (said Leasehold Interest encumbered by the Leasehold Mortgage is hereafter called the "**Leasehold Mortgage Property**"), in any lawful way, including possession through foreclosure, assignment and/or deed or assignment in lieu of foreclosure, and upon foreclosure of the Leasehold Mortgage or acceptance of an assignment and/or deed in lieu of foreclosure to the leasehold estate, take possession of the Leasehold Mortgage Property subject to the interests of the Project tenants.

6.3 **Owner's Rights.** Owner will not be required (a) to pledge its fee interest in the Land to secure any Sublease or Leasehold Mortgage; (b) to subordinate the fee interest to the rights of any Subtenant or Mortgagee; or (c) to assume in any manner any liability of Tenant under any Sublease or Leasehold Mortgage. The Sublease must specify that the Sublease is limited to the Leasehold Interest. The Sublease must, by its own terms, have a stated expiration date which is prior to expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Sublease or Leasehold Mortgage, together with written notice containing the name and post office address of the holder thereunder, to be delivered to Owner within ten (10) days of Tenant's execution and delivery of the Sublease or Leasehold Mortgage.

6.4 **Notices to Recognized Interest Holder.** Any Subtenant or Mortgagee may give notice to Owner of its name and address (who is sometimes referred to herein as a "**Recognized Interest Holder**") in the manner provided in this Lease, and if the notice is given, Owner will give to the Recognized Interest Holder a copy of each notice of default given pursuant to Section 14.1 by Owner to Tenant (the "**Owner Notice**") at the same time as and whenever any Owner Notice will thereafter be given by Owner to Tenant, addressed to the Recognized Interest Holder at its address last furnished to Owner (the "**Holder Notice**"). No notice by Owner to Tenant hereunder will be deemed to have been duly given unless and until a copy thereof has been served on the Recognized Interest Holder in the manner provided in this Lease.

6.5 **Recognized Interest Holder Provisions.** Owner agrees that it will not accept the surrender of the Land by Tenant prior to the termination of this Lease, or consent to the modification of any term of the Lease which materially alters the rights and obligations of the parties hereunder, or consent to the termination thereof by Tenant, without the prior written approval of each Recognized Interest Holder, in each instance, which approval will not be unreasonably withheld, conditioned or delayed. Owner further agrees that it will not seek to terminate the Lease or Tenant's right of possession thereunder by reason of any act or omission of Tenant until:

- (1) Owner has given to each Recognized Interest Holder a copy of the Owner Notice with respect to the Event of Default, as defined hereafter in Section 14.1, upon which the proposed termination is based;
- (2) after the expiration of all applicable notice and grace periods set forth under the Lease with respect to the Event of Default (a “**Lease Default**”), Owner will have given written notice to each Recognized Interest Holder of the failure of Tenant to cure the lease Default. The Holder Notice will be sent by certified mail, return receipt requested or by a nationally recognized commercial overnight delivery service to the address designated in writing to Owner by each Recognized Interest Holder (or any other address as may hereinafter be designated in writing to Owner by each Recognized Interest Holder); and
- (3) a reasonable period of time will have elapsed following the receipt of the Holder Notice, during which period any Recognized Interest Holder will have the right, but will not be obligated, to remedy the lease Default, Owner agreeing to accept any remedy by any Recognized Interest Holder as if the same had been performed by Tenant.

As used herein, a reasonable period of time will be 60 days if the lease Default can be remedied during the 60 day period; provided, however, if the lease Default cannot be remedied during the 60 day period, then the period of time as is necessary to remedy the lease Default (not to exceed one-hundred twenty (120) days), provided any Recognized Interest Holder has commenced to cure the lease Default within the 60 day period and continues to diligently prosecute the same. Any default that, by its nature, is not capable of being cured by Recognized Interest Holder will be deemed cured whether or not the default is cured, but as to Recognized Interest Holder only and not as to Tenant. Further:

- (a) Owner will accept performance by any Recognized Interest Holder of any covenant, condition or agreement on Tenant’s part to be performed hereunder with the same force and effect as though performed by Tenant.
- (b) If the Recognized Interest Holder is a Mortgagee, then the time for the Recognized Interest Holder to cure any Lease Default by Tenant which reasonably requires that the Recognized Interest Holder be in possession of the Leasehold Mortgage Property to do so, will be deemed extended to include the period of time required by the Recognized Interest Holder to obtain the possession or obtain Tenant’s interest in the Leasehold Mortgage Property (by foreclosure or otherwise) with due diligence; provided, however, that the Recognized Interest Holder will have delivered to Owner its written commitment to cure outstanding Lease Defaults reasonably requiring possession of the Leasehold Mortgage Property and which are capable of being cured by the Recognized Interest Holder (which commitment may be revoked by Recognized Interest Holder by written notice to Owner); and further provided, however, that during the period all other obligations of Tenant under this Lease are being duly performed to the extent that the other obligations are capable of being performed by the Recognized Interest Holder, including but not limited the payment of rent and other monetary obligations due Owner.
- (c) The provisions of this Section 6.5 are for the benefit of each Recognized Interest Holder and may be relied upon and will be enforceable by each Recognized Interest Holder and their respective successors and assigns. Neither a Recognized Interest Holder nor any other holder or owner of the indebtedness secured by a Leasehold Mortgage or otherwise will be liable upon the covenants, agreements or obligations of Tenant contained in this Lease, unless and until the Recognized Interest Holder or that holder or owner acquires the

interest of Tenant, and then only to the extent set forth in this Section 6.5. Owner and Tenant agree to execute the documentation reasonably requested by a Recognized Interest Holder consistent with the terms and provisions of this Article 6.

- (d) Anything herein contained to the contrary notwithstanding, the provisions of this Section 6.5 will inure only to the benefit of all Recognized Interest Holders and their respective successors and assigns. If more than one the Mortgagee (one the Mortgagee being intended to include multiple mortgagees holding a single mortgage or deed of trust) will make written requests upon Owner for a new ground lease in accordance with the provisions of this Section, the new ground lease will be entered into pursuant to the request of the Recognized Interest Holder whose Leasehold Mortgage will be prior in lien thereto according to the records of Blaine County and thereupon the written requests for a new ground lease of each person junior in priority will be deemed to be void and of no force and effect.

#### 6.6 Other Miscellaneous Provisions Concerning Leasehold Mortgages

- (a) At Tenant's request, Owner will execute a written agreement with a Recognized Interest Holder in which Owner agrees that it consents to the granting of the Sublease or Leasehold Mortgage and that Owner will not disturb the tenancy or rights of the Recognized Interest Holder (its successors or assigns and any subsequent purchaser) so long as the Recognized Interest Holder (its successors or assigns and subsequent purchaser) cures any existing defaults as required herein and commits no default beyond the applicable notice and curative periods hereunder and is otherwise in full compliance with the terms of this Lease. Additionally, Owner will execute the other documentation reasonably requested to confirm the rights of a Recognized Interest Holder hereunder; provided, under no circumstances will Owner be responsible for the payment of the debt secured by the Leasehold Mortgage, and in no event will Owner's fee simple estate in the Land, including Owner's reversionary interest in the Project be subject or subordinate to any Sublease or the lien of the Leasehold Mortgage.
- (b) Owner agrees that it will promptly make the reasonable amendments or modifications of the Lease as are requested by any Recognized Interest Holder, provided that there will be no adverse change in any of the substantive rights, duties or obligations of Owner under this Lease. The preceding sentence is effective regardless of the fact that the Recognized Interest Holder may make the request prior to the execution of the applicable Sublease or Leasehold Mortgage; in that event, said amendments or modifications to the Lease will become effective as of the execution of the Sublease or Leasehold Mortgage.

### ARTICLE 7 TAXES

From and after the Commencement Date and continuing thereafter during the Term, Tenant will pay or cause to be paid all real and personal property taxes, general and special assessments, and all other charges, assessments and taxes of every description, levied on or assessed against the Land, the Project and other improvements located on the Land. Tenant will make all payments directly to the appropriate charging or taxing authority before delinquency. If, however, the law expressly permits the payment of any or all of the above items in installments (whether or not interest accrues on the unpaid balance), Tenant may, at Tenant's election, utilize the permitted installment method, but will pay each installment before delinquency. All payments of taxes or assessments will be prorated for the year in which this Lease commences and for the year in which the Lease terminates. Tenant will have the right to contest or review by legal proceedings, as permitted under applicable law, any assessed valuation, real estate tax, or assessment; provided that, unless

Tenant has paid the tax or assessment under protest, Tenant will furnish to Owner (i) proof reasonably satisfactory to Owner that the protest or contest may be maintained without payment under protest, and (ii) a surety bond or other security reasonably satisfactory to Owner securing the payment of the contested item or items and all interest, penalty and cost in connection therewith upon the final determination of the contest or review. Any amount already paid by Tenant and subsequently recovered by Owner or Tenant as the result of the contest or review will be for the account of Tenant.

## **ARTICLE 8 MAINTENANCE AND REPAIR**

Tenant agrees that it will, at its own expense, maintain or cause to be maintained the entire Land, the Project and any other improvements and appurtenances thereto and every part thereof, in good order, condition and repair and in accordance with applicable law. In the event any repairs required to be made under the provisions of this Lease are not made within thirty (30) days after written notice from Owner to do so, then Owner may, at its option, enter upon the Land and repair the same, and the cost and expense of the repairs, with interest at the applicable legal rate will be due and paid by Tenant to Owner upon demand.

## **ARTICLE 9 MECHANICS' LIENS**

Tenant will not suffer, create or permit any mechanic's liens or other liens to be filed against the fee interest of Owner in the Land or Project by reason of any work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Land or any part thereof through or under Tenant. If any mechanic's or laborer's liens or materialman's lien will be recorded against the Land or the Project, then within sixty (60) days after notice of the filing thereof, or fifteen (15) days after Tenant is served with a complaint to foreclose said lien or Owner advises Tenant in writing that Owner has been served with the complaint, whichever is earlier, Tenant will use commercially reasonable efforts cause the lien to be removed, or will transfer the lien to bond for the benefit of Owner pursuant to applicable law. If Tenant in good faith desires to contest the lien, Tenant will be privileged to do so, but in that case Tenant agrees to indemnify and save Owner harmless from all liability for damages, including attorneys' fees and costs, occasioned thereby and will, in the event of a judgment of foreclosure upon any mechanic's, laborer's or materialman's lien, cause the same to be discharged and removed prior to the execution of the judgment.

## **ARTICLE 10 CONDEMNATION**

**10.1 Interests of Parties on Condemnation.** If the Land or any part thereof will be taken for public purpose by condemnation as a result of any action or proceeding in eminent domain, or will be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Owner, Tenant and any Recognized Interest Holder in the award or consideration for the transfer, and the allocation of the award and the other effect of the taking or transfer upon this Lease, will be as provided by this Article 10.

**10.2 Total Taking.** If the entire Land is taken, then (a) the right of Tenant and each Subtenant to possess the Land under this Lease will terminate on the date title to the Land vests in the condemning authority; and (b) this Lease will terminate after Tenant and each Recognized Interest Holder has received all amounts that it may be entitled to receive with respect to the taking.

### **10.3 Partial Taking.**

- (a) In the event of taking or transfer of only a part of the Land, leaving the remainder of the Land in a location, form, shape or reduced size as to be not effectively and practicably usable in the good faith opinion of Tenant (and each Subtenant, if any) for the operation thereon of the Project, taking into consideration the effect, if any, of the taking on the

availability of parking proximately located to the Project, and if Owner agrees with the determination of the Tenant (and each Subtenant, if any), which consent will not be unreasonably withheld, this Lease and all right, title and interest thereunder may be terminated by Tenant (and each Subtenant, if any) giving, within sixty (60) days of the occurrence of the event, thirty (30) days' notice to Owner of Tenant's (and each Subtenant's, if any) election to terminate.

- (b) In the event of a taking of only a part of the Land leaving the remainder of the Land in a location, form, shape or reduced size as to be used effectively and practicably in the good faith opinion of Tenant (and each Subtenant, if any) for the purpose of operation of the Project therein, this Lease will terminate only as to the portion of the Land so taken or transferred as of the date title to the portion vests in the condemning authority, and will continue in full force and effect as to the portion of the Land not so taken or transferred. If title and possession of a portion of the Land is taken under the power of eminent domain, and the Lease continues as to the portion remaining, all compensation and damages ("**Compensation**") payable to Tenant (or the applicable Subtenant, if any) by reason of any improvements so taken will be available to be used, to the extent reasonably needed, by Tenant (or the applicable Subtenant, if any) in replacing any improvements so taken with improvements of the same type as the remaining portion of the Land.

10.4 **Allocation of Award.** Any Compensation awarded or payable because of the taking of all or any portion of the Land by eminent domain will be awarded in accordance with the values of the respective interests in the Land and all improvements thereon immediately prior to the taking. The value of Owner's interest in the Land immediately prior to a taking will include the then value of its interest in the Land prior to the Expiration Date of this Lease, together with the value of its reversionary interest in the Land and Project after the Expiration Date. The value of Tenant's interest in the Land immediately prior to a taking will include the then value of its interest in the Land and Project for the remainder of the Term. The values will be those determined in the proceeding relating to the taking or, if no separate determination of the values is made in the proceeding, those determined by agreement between Owner, Tenant and any affected Recognized Interest Holders. If the agreement cannot be reached, the values will be determined by an appraiser or appraisers appointed in the manner by agreement of the parties to the dispute, or if no agreement is reached within a reasonable period of time, then an appraiser or appraisers appointed by an arbitrator appointed under Idaho Uniform Arbitration Act. In the event of separate awards, then each party may retain the separate awards made to each and any of them. To the extent any outstanding amount under any Leasehold Mortgagee exists, then the outstanding balance of the Leasehold Mortgage will be satisfied first from Tenant's award or share of the award, and if the share is insufficient, then Tenant will pay the balance from its own resources.

10.5 **Voluntary Conveyance.** Any voluntary conveyance by Owner under threat of a taking under the power of eminent domain in lieu of formal proceedings will be deemed a taking within the meaning of this Article 10.

## ARTICLE 11 ASSIGNMENT

Tenant may not assign, sublease, convey or transfer this Lease or the Leasehold Estate, other than as expressly permitted in Article 5 and Article 6 of this Lease, without the prior written consent of Owner, which Owner will not unreasonably withhold. No assignment, sublease, conveyance or transfer of this Lease or the Leasehold Estate will release Tenant from this Lease, and Tenant will remain fully liable for all obligations binding upon Tenant under this Lease. In the event of an approved sale or transfer of Tenant's interest in this Lease, any approved assignee will be required to assume in writing the "Tenant" obligations under this Lease.

## ARTICLE 12 INSURANCE AND INDEMNIFICATION

12.1 **Comprehensive Liability Insurance.** Tenant will, at its cost and expense, at all times during the Term, maintain in force, for the joint benefit of Owner and Tenant, a commercial general liability insurance policy or its equivalent issued by a carrier licensed to do business the State of Idaho with a Best's Insurance Guide Rating of A+, by the terms of which Owner and Tenant, are named as insureds or additional insureds, as the case may be, and are indemnified against liability for damage or injury to the Land or person (including death) of any person entering upon or using the Land or the Project. The insurance policy or policies will be maintained on the minimum basis of \$1,000,000.00 for damage to property and for bodily injury or death as to any person, and \$1,000,000.00 as to any one accident. Owner reserves the right to require reasonable increases in the limits of coverage from time to time during the Term; and the requested increase will be deemed reasonable if consistent with commercially reasonable practices for similar projects in the same geographic area. The insurance policy or policies will be stated to be primary and noncontributing with any insurance which may be carried by Owner. Evidence of said insurance will be delivered to Owner on the Commencement Date, and evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at the maximum rate allowed by law, to Tenant, to be paid by Tenant.

12.2 **Fire and Extended Coverage Property Insurance.** Tenant will, at its cost and expense and at all times during the Term, maintain in force, for the joint benefit of Owner, Tenant and all Recognized Interest Holders, a policy of insurance against loss or damage to the Project by fire and lightning, and the other perils as are covered under a "Cause of Loss-Special Form" policy or equivalent together with the broadest form of the "extended coverage" or "all risk" endorsements, or equivalent, available in Idaho including damage by wind storm, hurricane, explosion, smoke, sprinkler leakage, vandalism, malicious mischief and any other risks as are normally covered by the endorsements. Owner will be named as an additional insured on the policy of insurance, and any Recognized Interest Holder will be named as required by the Sublease or Leasehold Mortgage, and subject to terms of the Sublease or Leasehold Mortgage any insurance proceeds will be applied in the manner as set forth in this Lease. The insurance will be carried and maintained to the extent of full (actual) replacement cost of the Project; provided however, that during the period of construction, Tenant will provide or cause to be provided in lieu thereof builders' risk or similar type of insurance to the full replacement costs thereof. The insurance policy or policies will be stated to be primary and noncontributing with any insurance which may be carried by Owner. Evidence of said insurance will be delivered to Owner on the Commencement Date. Evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at Owner's Interest Rate, to Tenant, to be paid by Tenant as additional rent hereunder. Owner will have no obligation to obtain insurance for the benefit of Tenant.

12.3 **Evidence of Insurance.** Evidence of the required liability insurance will be delivered to Owner on the Commencement Date. Evidence of the required property insurance will be delivered to Owner prior to construction of the Project. Evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at Owner's Interest Rate, to Tenant, to be paid by Tenant as additional rent hereunder. Owner will have no obligation to obtain insurance for the benefit of Tenant.

12.4 **Waiver of Subrogation.** Owner and Tenant and all parties claiming under them mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by the casualty and liability insurance to be carried on the Project, the Land or in connection with any improvements on or activities conducted on the Land and the Project, and waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof, and evidence the waiver by endorsement to the required insurance policies, provided that the release will not operate in any case where the effect is to invalidate or substantially increase the cost of the insurance coverage (provided that in the case of increased cost, the other party will have the right, within thirty (30) days following written notice, to pay the increased cost, thereby keeping the release and waiver in full force and effect).

12.5 **Indemnification.** Tenant (and each Subtenant, but only with respect to the Subleased Property) hereby agrees to indemnify, defend and save Owner harmless from and against any third-party claims, losses, damages and expense (including attorneys' fees and costs through litigation and all appeals) in connection with the loss of life, personal injury and damage to property caused by (a) any occurrence in, upon, at or about the Land or Project; (b) the occupancy, use, construction upon and maintenance of the Land and Project by Tenant (or the applicable Subtenant), and its guests and invitees, and any party acting by, through or under any of them; and (c) any wrongful or negligent act or failure to act by Tenant (or the applicable Subtenant) or its employees, agents or contractors. Nothing contained herein will be construed to make Tenant or any Subtenant liable for any injury or loss caused by the negligence, gross negligence or willful misconduct of Owner or any agent or employee of Owner.

### **ARTICLE 13 DAMAGE AND DESTRUCTION**

13.1 **Tenant's Duty to Restore Property.** If any buildings or improvements now or hereafter on the Land are damaged and/or destroyed in whole or in part by fire, theft, the elements, or any other cause, this Lease will continue in full force and effect, and Tenant, at its sole cost and expense, will have the right to repair and restore the damaged or destroyed Project in any matter permitted by this Lease. The work of repair and restoration will be commenced by Tenant as soon as reasonably possible, with due consideration given to, among other things, clearing of damaged portions of the Land and site preparation, adjustment of insurance claims, redesign, rebidding and repermitting, obtaining a new loan or loans for construction or repair. Tenant will proceed diligently to commence repairs and restoration. Once construction has commenced, Tenant will proceed diligently thereafter to complete the construction or repair, subject to reasonable delays due to force majeure events or events beyond the reasonable control of Tenant. Tenant will not be responsible for delays caused by force majeure events or for reasons beyond the reasonable control of Tenant.

13.2 **Option to Terminate Lease for Destruction.** Notwithstanding Section 13.1 above, if the Project is damaged or destroyed by fire, theft or any other casualty, then Tenant will have the option of terminating this Lease by at least sixty (60) days' prior written notice of Tenant's intent to do so, If Tenant elects to terminate this Lease, then Tenant will also be required to remove, at Tenant's own expense, all debris and remains of the damaged improvements from the Land.

### **ARTICLE 14 DEFAULTS AND REMEDIES**

14.1 **Defaults.** Each of the following events will constitute an "Event of Default":

14.1.1 Tenant's abandonment of the Land, or the improvements now or hereafter constructed thereon, where the abandonment continues for a period of sixty (60) days after notice thereof by Owner to Tenant;



- 14.1.2 Any violation of the Affordability Requirements or use restrictions set forth in this Lease; provided, however, as to any violations of the use restrictions by any Subtenant, tenant or occupant of the Project, then Tenant's only obligation is to take reasonable action to stop the violation by the Subtenant, tenant or occupant promptly after receipt of written notice from Owner specifying the violation of the use restriction. The reasonable action may include legal or equitable actions to enforce the use restrictions against the Subtenant, tenant or occupant; provided, however, Tenant will not be obligated to pursue the termination of any Sublease or the eviction of the Qualified Tenant.
- 14.1.3 Tenant's failure to pay any monetary obligations of any nature whatsoever required to be paid by Tenant under this Lease when due and payable;
- 14.1.4 Tenant's failure to observe or perform any other material covenants, conditions or agreements under this Lease.

14.2 **Notice and Right to Cure.** As to any Event of Default occurring under this Lease, Tenant will have thirty (30) days after written notice is given by Owner specifying the nature of the default to cure the default; provided, however, that if after exercise of due diligence and its best efforts to cure the non-monetary default Tenant is unable to do so within the thirty (30) day period, then the curing period will be extended for the reasonable time as may be reasonably approved by Owner for curing the default, so long as Tenant continues to diligently prosecute to completion the curing of the default.

14.3 **Remedies.** If any default by Tenant will continue uncured upon expiration of the applicable curing period, then subject to the rights of any Mortgagee or Subtenant under this Lease, Owner may, at Owner's election, terminate this Lease by notice to Tenant. All Tenant's rights in the Land, the Project and in all improvements will terminate upon termination of this Lease. Promptly after any termination, Tenant will surrender and vacate the Land and the Project, and Owner may re-enter and take possession of the Land and the Project, subject to (a) any Subleases where the Subtenant is not in default beyond any applicable cure period; (b) any leases authorized pursuant to Article 5, all of which will remain in full force and effect; and (c) any federal or state affordability programs to which the Project (or individual residential units therein) may be bound. Termination under this paragraph will not relieve Tenant from the payment of any sum then due to Owner, or from any claim for damages previously accrued, or then accruing, against Tenant. Owner will utilize commercially reasonable efforts to mitigate damages in case an Event of Default will occur.

## **ARTICLE 15 SURRENDER AND REMOVAL**

Upon any termination of the Term, Tenant will surrender possession of the Land and all improvements constructed and installed thereon. Tenant may remove, or cause to be removed, all personal property, trade fixtures and equipment of Tenant, other than permanent fixtures, from the Land within thirty (30) days after the date of any termination of this Lease; thereafter all personal property, trade fixtures and equipment not removed will belong to Owner without the payment of any consideration.

## **ARTICLE 16 HAZARDOUS MATERIALS**

16.1 **Definition. "Hazardous Materials"** means any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems and those materials, substances and/or wastes, including infectious waste, medical waste, and potentially infectious biomedical waste, which are or later become regulated by any local governmental authority, the State of Idaho or the United States Government, including substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the Comprehensive Environmental Response,

Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; all corresponding and related State of Idaho and local statutes, ordinances and regulations, including without limitation any dealing with underground storage tanks; and in any other environmental law, regulation or ordinance now existing or hereinafter enacted (collectively, “**Hazardous Materials Laws**”).

16.2 **Use of Property by Tenant.** Tenant (and each Subtenant, but only with respect to the Subleased Property) hereby agrees that it and its employees, representatives, agents, contractors, subcontractors, tenants, subtenants and any other occupants of the Land (for purpose of this Section 16.2, referred to collectively herein as “**Occupants**”) will not use, generate, manufacture, process, store or dispose of, on, under or about the Land except in compliance with applicable Hazardous Materials Laws, e.g., Occupants of the Project will have the right to use and store reasonable quantities of Hazardous Materials at the Project used by Tenant as cleaning and office supplies. store reasonable quantities of Hazardous Materials within the Project.

16.3 **Indemnification by Tenant.** Tenant (and each Subtenant, but only with respect to its Subleased Property) will indemnify, defend and hold Owner harmless from any claims, damages, losses or expenses (including reasonable attorneys’ fees and costs through litigation and all appeals) resulting from death of or injury to any person, or damage to any property, or government mandated remediation plans, arising from by (a) Tenant’s (or Subtenant’s, as applicable) failure to comply with any Hazardous Materials Laws with respect to the Land, or (b) a breach of any covenant, warranty or representation of Tenant (or Subtenant, as applicable) under this Article 16. The foregoing indemnification by Tenant and each Subtenant will not extend to Hazardous Materials on, in or about the Land prior to prior to the Commencement Date.

## **ARTICLE 17 REPRESENTATIONS AND WARRANTIES**

17.1 **By Owner.** Owner makes the following representations and warranties to Tenant: (a) Owner is duly organized and existing under the laws of its state of origin and has all requisite legal power and authority to execute, deliver and perform this Lease; (b) the execution, delivery and performance by Owner of this Lease have been duly authorized by all requisite entity action of Owner and there is no provision in its charter documents requiring further consent by any other person or entity; (c) this Lease constitutes the legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, reorganization, moratorium or similar laws affecting or limiting creditors’ rights generally or by equitable principles relating to enforceability; (d) Owner has fee title to the Land and there are no liens or encumbrances against the Land except as permitted under this Lease; and (e) Owner will not during the Term of the Lease cause or suffer any lien, claim or encumbrances to exist against the Land by or through Owner, except as permitted by this Lease; (f) as long as Tenant is not in material default of this Lease (beyond any applicable cure period), Tenant will quietly hold, occupy and enjoy the Land during the Term without hindrance of Owner or any person claiming by, through or under Owner; and (g) Owner will cooperate with Tenant as reasonably necessary for Tenant to enjoy the benefits of this Lease, including executing any applications, consents or other instruments that are required (by applicable law or otherwise) to be executed by the fee simple owner of the Land, including any entitlement, subdivision or development applications.

17.2 **By Tenant.** Tenant makes the following representations and warranties to Owner: (a) Tenant is duly organized and existing under the laws of its state of origin and has all requisite legal power and authority to execute, deliver and perform this Lease; (b) the execution, delivery and performance by Tenant of this Lease have been duly authorized by all requisite entity action of Tenant and there is no provision in

its charter documents requiring further consent by any other person or entity; (c) this Lease constitutes the legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, reorganization, moratorium or similar laws affecting or limiting creditors' rights generally or by equitable principles relating to enforceability; (d) Tenant has inspected the Land and accepts the Land in its as-is condition, except for Owner's representations, warranties and covenants under this Lease; and (e) Tenant will not during the Term of the Lease cause or suffer any lien, claim or encumbrances to exist against the Land by or through Tenant, except as permitted by this Lease.

## **ARTICLE 18 NOTICES**

Unless otherwise specifically required by this Lease or applicable law, any notices, approvals, consents or other communications required or permitted by this Lease or by applicable law to be served on, given to, or delivered to any party to this Lease must be writing and will be deemed duly served, given, delivered and received only when actually received by the receiving party (or delivery is refused by the receiving party). Delivery may be by any reasonable method. Each party agrees to give notice to the other parties of its address and any change of its address for the purpose of this section by giving written notice of the change to the other party in the manner herein provided. If any party fails to provide a current address for notices, then the other parties may serve notices to the then current address for the other party (or its registered agent) in the records of the Idaho Secretary of State or the records of the Blaine County Assessor. For so long as the City of Ketchum remains the Owner, then City of Ketchum may update its notice address by public notice.

## **ARTICLE 19 GENERAL PROVISIONS**

**19.1 Survival of Indemnities.** All representations, warranties and indemnities of Owner, Tenant and each Subtenant under this Lease will survive the expiration or sooner termination of this Lease.

**19.2 Unavoidable Delay; Force Majeure.** If either party will be delayed or prevented from the performance of any act required by this Lease by reason of acts of God, strikes, lockouts, labor troubles, pandemics, epidemics, inability to procure materials, restrictive governmental laws, or regulations or other cause, without fault and beyond the reasonable control of the party obligated, performance of the act will be excused for the period of the delay; and the period for the performance of any act will be extended for a period equivalent to the period of the delay.

**19.3 Interpretation.** Time is of the essence of any obligation where time is a factor. The use herein of any gender includes all other genders, and the use of the singular number includes the plural and vice-versa, whenever the context so requires. Captions in this Lease are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Lease or any of the terms hereof. The word "including" will be construed without limitation, as if the words "but not limited to" appear immediately after. The words shall, will and must have the same meaning, which is mandatory. This Lease will not be construed in favor of any party hereto, but to be construed fairly and broadly toward effectuating the purposes hereof. If any term, provision, covenant or condition of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will remain in full force and effect and will in no way be affected, impaired or invalidated. For purposes of this Lease, the parties to this Lease includes Owner and Tenant, and if applicable, any Subtenant in possession of a Subleased Property, but only with respect to the Subleased Property.

**19.4 Entire Agreement.** This Lease contains the entire agreement between the parties regarding the subject matter hereof. Any other oral or written representations, agreements, understandings and/or statements will be of no force and effect.

19.5 **Waiver; Amendment.** No modification, waiver, amendment, discharge or change of this Lease will be valid unless the same is in writing and signed by the party against which the enforcement of the modification, waiver, amendment, discharge or change is or may be sought. Owner and Tenant agree that they will not amend this Lease with respect to any Subleased Property without the prior written consent of the Subtenant thereof.

19.6 **Attorney's Fees.** If either party retains an attorney to enforce or interpret this Lease, the prevailing party will be entitled to recover reasonable attorneys' fees and litigation costs incurred through litigation, bankruptcy proceedings and all appeals.

19.7 **Governing Law.** This Lease will be construed and enforced in accordance with the laws of the State of Idaho.

19.8 **Binding Effect.** This Lease will bind, and inure to the benefit of, the parties and their respective successors and permitted assigns.

19.9 **Estoppel Certificates.** Either party will execute, acknowledge and deliver to the other party, within twenty (20) days after the request by the other party, a statement in writing certifying, if it is the case, that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified); the date of commencement of this Lease; the dates for which the rent and other charges have been paid; any alleged defaults and claims against the other party; and providing any other information as may be reasonably requested.

19.10 **Waiver of Trial by Jury.** EXCEPT AS OTHERWISE PROVIDED BY LAW, OWNER AND TENANT MUTUALLY, EXPRESSLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY FOR ANY PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, OR ANY CONDUCT OR COURSE OF DEALING OF THE PARTIES, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSONS. THIS WAIVER IS A MATERIAL INDUCEMENT TO OWNER TO ACCEPT DELIVERY OF THIS LEASE.

[ end of text; counterpart signature pages follows ]





**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE LAND**

**EXHIBIT B**  
**CONCEPT PLANS FOR PROJECT**



Document comparison by Workshare Compare on Tuesday, November 16, 2021  
2:43:06 PM

<b>Input:</b>	
Document 1 ID	iManage://dms.givenspursley.com/GPDMS/15559357/5
Description	#15559357v5<GPDMS> - Ground Lease - Bluebird Village (27-Oct-2021)
Document 2 ID	iManage://dms.givenspursley.com/GPDMS/15559357/7
Description	#15559357v7<GPDMS> - Ground Lease - Bluebird Village (16-Nov-2021)
Rendering set	Standard

<b>Legend:</b>	
<a href="#">Insertion</a>	
<del>Deletion</del>	
Moved from	
Moved to	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	83
Deletions	69
Moved from	1
Moved to	1
Style changes	0
Format changes	0
<b>Total changes</b>	<b>154</b>



# **GROUND LEASE**

**by and between**

**CITY OF KETCHUM**  
**an Idaho municipal corporation**  
**(“Owner”)**

**and**

**KETCHUM COMMUNITY DEVELOPMENT CORPORATION**  
**an Idaho nonprofit corporation**  
**(“Tenant”)**

**FOR**

**BLUEBIRD VILLAGE**

**480 East Avenue**  
**Ketchum, Idaho 83340**

**TABLE OF CONTENTS**

ARTICLE 1 LEASE OF LAND..... 1  
     1.1 Land Restoration..... 1  
     1.2 Lease ..... 1

ARTICLE 2 LEASE TERM ..... 2

ARTICLE 3 RENT ..... 2

ARTICLE 4 THE PROJECT..... 2

ARTICLE 5 USE OF PREMISES..... 2  
     5.1 Permitted Uses ..... 2  
     5.2 Affordable Housing Units..... 2  
     5.3 Community Housing Units ..... 2  
     5.4 Employee Housing Units ..... 2  
     5.5 Qualified Tenants..... 3  
     5.6 Income Qualification ..... 3  
     5.7 Rent Limit for Affordable Housing Units..... 3  
     5.8 Ketchum Preference Policy..... 3  
     5.9 Annual Reports ..... 3  
     5.10 Federal or State Affordability Programs..... 3  
     5.11 Commercial Tenants ..... 4  
     5.12 Prohibited Uses ..... 4

ARTICLE 6 SUBLEASE AND ENCUMBRANCE OF LEASEHOLD ESTATE ..... 4  
     6.1 Tenant’s Right to Sublease ..... 4  
     6.2 Tenant’s Right to Encumber ..... 4  
     6.3 Owner’s Rights ..... 5  
     6.4 Notices to Recognized Interest Holder ..... 5  
     6.5 Recognized Interest Holder Provisions..... 5  
     6.6 Other Miscellaneous Provisions Concerning Leasehold Mortgages ..... 7

ARTICLE 7 TAXES..... 7

ARTICLE 8 MAINTENANCE AND REPAIR ..... 8

ARTICLE 9 MECHANICS’ LIENS ..... 8

ARTICLE 10 CONDEMNATION..... 8  
     10.1 Interests of Parties on Condemnation ..... 8  
     10.2 Total Taking..... 8  
     10.3 Partial Taking..... 8  
     10.4 Allocation of Award ..... 9  
     10.5 Voluntary Conveyance..... 9

ARTICLE 11	ASSIGNMENT.....	9
ARTICLE 12	INSURANCE AND INDEMNIFICATION.....	10
12.1	Comprehensive Liability Insurance.....	10
12.2	Fire and Extended Coverage Property Insurance.....	10
12.3	Evidence of Insurance.....	10
12.4	Waiver of Subrogation.....	11
12.5	Indemnification.....	11
ARTICLE 13	DAMAGE AND DESTRUCTION.....	11
13.1	Tenant’s Duty to Restore Property.....	11
13.2	Option to Terminate Lease for Destruction.....	11
ARTICLE 14	DEFAULTS AND REMEDIES.....	12
14.1	Defaults.....	12
14.2	Notice and Right to Cure.....	12
14.3	Remedies.....	12
ARTICLE 15	SURRENDER AND REMOVAL.....	12
ARTICLE 16	HAZARDOUS MATERIALS.....	13
16.1	Definition.....	13
16.2	Use of Property by Tenant.....	13
16.3	Indemnification by Tenant.....	13
ARTICLE 17	REPRESENTATIONS AND WARRANTIES.....	13
17.1	By Owner.....	13
17.2	By Tenant.....	14
ARTICLE 18	NOTICES.....	14
ARTICLE 19	GENERAL PROVISIONS.....	14
19.1	Survival of Indemnities.....	14
19.2	Unavoidable Delay; Force Majeure.....	14
19.3	Interpretation.....	14
19.4	Entire Agreement.....	15
19.5	Waiver; Amendment.....	15
19.6	Attorney’s Fees.....	15
19.7	Governing Law.....	15
19.8	Binding Effect.....	15
19.9	Estoppel Certificates.....	15
19.10	Waiver of Trial by Jury.....	15

**EXHIBITS**

Exhibit A      Legal Description of the Land

**GROUND LEASE  
FOR  
BLUEBIRD VILLAGE  
480 EAST AVENUE  
KETCHUM, IDAHO 83340**

This Ground Lease for Bluebird Village (this “**Lease**”) is made effective as of the date this Agreement is recorded in the real property records of Blaine County, Idaho (“**Effective Date**”) by and between City of Ketchum, an Idaho municipal corporation (“**Owner**”) and Ketchum Community Development Corporation, an Idaho nonprofit corporation (“**Tenant**”).

**RECITALS**

- A. Owner owns the parcel of land located at 480 East Avenue, Ketchum, Idaho 83353, that is legally described on Exhibit A (the “**Land**”).
- B. Tenant desires to lease the Land for redevelopment into a mixed-use project with street-level retail, parking, and affordable rental housing units in an energy-efficient building designed to blend into Ketchum’s downtown core, as graphically depicted on Exhibit B (the “**Project**” or “**Bluebird Village**”).
- C. Owner has authority, pursuant to Idaho Code § 50-1407, to manage city property and authorize the lease of any real property not otherwise needed for city purposes, upon any terms as the City Council determines may be just and equitable.
- D. Owner, by approval of this Lease, hereby finds that the Land is not otherwise needed for city purposes, that affordable community housing is an important community need, that it is in the best interest of the public to lease the Land to Tenant, and that the terms of this Lease are just and equitable.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties, the receipt and sufficiency of which are hereby acknowledged, Owner and Tenant agree that the foregoing recitals are true and correct and incorporated herein by this reference, and further agree as follows:

**ARTICLE 1 LEASE OF LAND**

- 1.1 **Land Restoration.** Owner agrees to restore the Land to a vacant “bare ground” state that is ready for development of the Project thereon, including (a) abatement and removal of any Hazardous Materials (as defined in Section 16.1) thereon, if any; (b) removal of any existing structures and other improvements on the Land, including any below-grade elements thereof (such as foundations, footings and utilities; (c) restoration of the surface of the Land to a clear, level and rough graded condition (collectively, the “**Land Restoration**”). Owner agrees to use commercially reasonable efforts to complete the Land Restoration on or before April 30, 2022. Owner will provide Tenant with a completion notice once the Land Restoration is fully complete and the Land is ready for development of the Project (the “**Completion Notice**”).
- 1.2 **Lease.** This Lease will be fully effective as of the Effective Date. From the Commencement Date (defined in Article 2), Owner hereby leases the Land to Tenant on the terms hereof. Tenant hereby accepts the lease of the Land from Owner on the terms hereof. Tenant warrants to Owner that Tenant accepts the Land in its as-is condition without representation or warranty from Owner,

except as expressly provided in this Lease. The term “**Leasehold Interest**” refers to Tenant’s interest in this Lease and the leasehold estate and all attendant and appurtenant rights, including without limitation, Tenant’s rights to all improvements to the Land.

## ARTICLE 2 LEASE TERM

The “**Term**” of the Lease will commence on the date that Owner provides the Completion Notice to Tenant (the “**Commencement Date**”) and will expire seventy-five (75) years after the Commencement Date (the “**Expiration Date**”).

## ARTICLE 3 RENT

For the entire Term, the rent due under this Lease is Ten Dollars (\$10), which Owner acknowledges to be paid by Tenant in full as of the Effective Date.

## ARTICLE 4 THE PROJECT

Tenant will cause the Project to be constructed on the Land in accordance with this Lease and applicable law. Once the Project is constructed on the Land, Tenant will (or will require Subtenants to) keep the Project in a state of good condition, maintenance and repair, with ordinary wear and tear excepted. Tenant may alter the Project in any lawful manner, provided that the Project (as altered) complies with the terms of this Lease.

## ARTICLE 5 USE OF PREMISES

- 5.1 **Permitted Uses.** Owner and Tenant agree that the principal purpose of this Lease is (a) to provide Affordable Housing Units (as defined below) for lease to Qualified Tenants (as defined below) for a rent that does not exceed the rent limit set forth in Section 5.7 below (collectively, the “**Affordability Requirement**”); (b) to provide Community Housing Units (as defined below) for lease to individuals meeting asset, income and minimum occupancy guidelines approved by the governing housing authority and the City of Ketchum, as ‘community housing’ under the Ketchum City Code (or its successor provisions) (collectively, the “**Community Requirement**”); and (c) provide ground floor commercial space for retail, restaurant, office, service and similar users for the benefit of the general public. Accordingly, the Land and the Project will be used primarily for the foregoing principal purpose and other uses that may be incidental thereto or in support thereof, and for no other purposes, except as otherwise approved by Owner.
- 5.2 **Affordable Housing Units.** A “**Affordable Housing Unit**” is each residential dwelling unit in the Project that is designated as being subject to the Affordability Requirement, which will be all residential dwelling units in the Project except Community Housing Units and Employee Housing Units. Tenant agrees to market, lease and operate the Affordable Housing Units on the terms set forth in this Lease.
- 5.3 **Community Housing Units.** A “**Community Housing Unit**” is each residential dwelling unit in the Project that is designated as being subject to the Community Requirement. Tenant agrees to market, lease and operate the Community Housing Units on the terms set forth in this Lease and the requirements of the Ketchum City Code.
- 5.4 **Employee Housing Units.** A “**Employee Housing Unit**” is each residential dwelling unit in the Project that is designated for occupancy by (or are reserved for occupancy by) a residential tenant household where at least one person of that household is a full time employee (30+ hours per week)

primarily providing services with respect to and for the Project. Tenant may designate up to two (2) dwelling units as Employee Housing Units.

- 5.5 **Qualified Tenants.** As used herein, the term “residential tenant” for a Affordable Housing Unit means all persons that lease or occupy the Affordable Housing Unit as a dwelling, whether or not the persons are related. A “**Qualified Tenant**” is any residential tenant household that meets Tenant’s then-current tenant selection criteria for the Project with a household income that does exceed the applicable household income limit of the Applicable Affordable Housing Program (if any is then in effect) or, if no such Applicable Affordable Housing Program is then in effect, then in accordance with the then current applicable household income limits of the Low Income Housing Tax Credit (LIHTC) program. Nothing in this Lease will require Tenant to lease any Affordable Housing Unit to a residential tenant that does not meet Tenant’s then-current tenant selection criteria for the Project (other than limited income as permitted herein). Nothing in this Lease limits Tenant’s right to enforce the terms of any lease or other agreement with a residential tenant (or any the occupant) in the Project.
- 5.6 **Income Qualification.** Each Affordable Housing Unit must be occupied (or, if unoccupied, made available for occupancy) by a Qualified Tenant. Tenant will verify that each residential tenant meets the income qualification to be a Qualified Tenant, which verification may be by any reasonable method, including the residential tenant’s production of reasonable evidence of residential tenant’s income and residential tenant’s self-certification that income statements are true and correct in all material respects. Once a residential tenant is verified to be a Qualifying Tenant and leases a Affordable Housing Unit, then the residential tenant will remain a Qualifying Tenant for as long as the residential tenant remains a tenant in the Project.
- 5.7 **Rent Limit for Affordable Housing Units.** To maintain the Affordable Housing Units as affordable, Tenant will charge monthly rent for each Affordable Housing Unit that does not exceed the applicable rent limit of the Applicable Affordable Housing Program (if any is then in effect) or, if no such Applicable Affordable Housing Program is then in effect, then in accordance with the then current applicable rent limits of Low Income Housing Tax Credit (LIHTC) program. If at any time during the Term, Tenant is permitted by the Applicable Affordable Housing Program to exceed the foregoing rent limit for an Affordable Housing Unit for any particular residential tenant, then the portion of the rent that exceeds the foregoing rent limit will be paid to Owner. The Commercial space in the Project is excluded from this provision for the Term of the Lease.
- 5.8 **Ketchum Preference Policy.** Except to the extent prohibited by any Applicable Affordable Housing Program (defined in Section 5.10) or other applicable law, all Affordable Housing Units and Community Housing Units must be leased in accordance with the then current preference policy or ordinance adopted by the City of Ketchum, if any (a “**Ketchum Preference Policy**”).
- 5.9 **Annual Reports.** After occupancy of the Project, Tenant will provide Owner with a written report (in any form reasonably requested by Owner) by March 1 of each year that provides reasonable evidence that the Affordable Housing Units have been leased (or made available for lease) in compliance with the Affordability Requirement (as applicable) during the prior calendar year.
- 5.10 **Federal or State Affordability Programs.** Owner and Tenant intend the Affordability Requirement and this Lease to be adjusted as necessary to allow for the Project to fully take advantage of any then available federal, state or local programs for affordable housing. Affordable housing programs include, by way of example and not limitation, the Low Income Housing Tax Credit (LIHTC) program, HOME investment partnership program (HOME), Community Development Block Grants (CDBG) funding, and the HUD Housing Trust Fund (HTF) program.



To the extent that any program requires an amendment or rider to this Lease, Owner agrees to promptly execute any amendment or rider that is reasonably required for the Project to fully participate in the Program. To the extent any element of the Affordability Requirement or this Lease is inconsistent with any federal, state or local state affordable housing program that applies to the Project (or any residential dwelling units therein) (an “**Applicable Affordable Housing Program**”), then the terms of the Applicable Affordable Housing Program will govern over the inconsistent terms of the Affordability Covenant or the Lease.

- 5.11 **Commercial Tenants.** Tenant may lease the Commercial Space to any party for the occupancy and use thereof (a “**Commercial Tenant**”) provided that (a) the lease is subject to the terms of this Lease; (b) the term of the lease will expire prior to the Term; and (c) the uses allowed in the Commercial Space are limited to office, retail, restaurant, service and similar uses that are open to the general public. Except as restricted by this Lease, Tenant may lease the commercial space in any lawful manner and on any financial terms as Tenant deems appropriate.
- 5.12 **Prohibited Uses.** Tenant agrees that it will not permit the Land or the Project for (a) any use that constitutes a public or private nuisance in or around the Land; (b) use that violates applicable law; (c) any industrial use; (d) any use related to the service of automobiles or other self-powered machines; (e) any dry-cleaner (or other cleaning service that uses solvents similar to dry-cleaning); (f) any ‘head’ shop or similar operation that sells any paraphernalia related to the use of marijuana, cannabis, tetrahydrocannabinol or other illegal substances; or (g) any use relates to the use, sale, cultivation, manufacture, distribution or marketing of any substance containing any amount of marijuana, cannabis or tetrahydrocannabinol (whether for commercial, medical, or personal purpose) if such activities are prohibited by applicable federal, state or local law (and if the any such activities become lawful under some federal, state or local applicable law, but prohibited by other federal, state or local law, then the such activities will remain prohibited).

## ARTICLE 6 SUBLEASE AND ENCUMBRANCE OF LEASEHOLD ESTATE

- 6.1 **Tenant’s Right to Sublease.** Tenant may, at any time, sublease all or any portion of the Leasehold Interest (each, a “**Sublease**”) without Owner’s consent, and in that event, the subtenant of the Sublease (each, a “**Subtenant**”) will perform all of Tenant’s obligations under this Lease with respect to the Leasehold Interest subleased under the Sublease (said Leasehold Interest subleased by the Sublease is hereafter called the “**Subleased Property**”). By way of example, if Tenant enters into a Sublease for portion of the Project that has Affordable Housing Units (or that will be developed into Affordable Housing Units), then the Subtenant of the Sublease will be the “Tenant” under this Lease with respect to the Sublease, and any reference herein to Tenant with respect to the Subleased Property will also mean the Subtenant. For clarity, the following leases are not Subleases under this Lease: (a) the lease of an Affordable Housing Unit, Community Housing Unit or Employee Housing Unit to a qualifying residential tenant thereof; and (b) the lease of Commercial Space to a Commercial Tenant. The Sublease must specify that the Sublease is limited to the Leasehold Interest, and must have a stated expiration date which is prior to expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Sublease, together with written notice containing the name and address of the holder Subtenant, to be delivered to Owner within ten (10) days of Tenant’s execution and delivery of the Sublease or Leasehold Mortgage. Subject to the terms of this Lease, a Subtenant may enforce its rights under its Sublease and take possession of the Leasehold Interest subleased under the Sublease (said Leasehold Interest subleased by the Sublease is hereafter called the “**Subleased Property**”), in any lawful way.
- 6.2 **Tenant’s Right to Encumber.** Tenant may, at any time, encumber all or any portion of the Leasehold by deed of trust, mortgage or other security instrument (collectively, “**Leasehold**

**Mortgage**”). Any Leasehold Mortgage of any part of the Leasehold Interest must be expressly subject and subordinate to the terms of this Lease. Tenant covenants to pay the indebtedness secured by any Leasehold Mortgage when the same will become due and payable, and to perform, when the performance is required, all obligations of the mortgagor thereunder. Tenant further agrees not to suffer or permit any default to occur and continue under any Leasehold Mortgage beyond any applicable cure period. The Leasehold Mortgage will specify that the indebtedness is that of Tenant only and is not the indebtedness of Owner and that the lien of the Leasehold Mortgage is limited to the Leasehold Interest. Each Leasehold Mortgage must, by its own terms, have a stated maturity date which is prior to expiration of the Term, and Tenant covenants that it will be so paid and that the Leasehold Interest will be released from the lien prior to the expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Leasehold Mortgage, together with written notice containing the name and address of the holder thereunder (the “**Mortgagee**”), to be delivered to Owner within ten (10) days of Tenant’s execution and delivery of the Mortgage to the Mortgagee. Subject to the terms of this Lease, a Mortgagee may enforce its rights under its Leasehold Mortgage and succeed to the Leasehold Interest encumbered by the Leasehold Mortgage (said Leasehold Interest encumbered by the Leasehold Mortgage is hereafter called the “**Leasehold Mortgage Property**”), in any lawful way, including possession through foreclosure, assignment and/or deed or assignment in lieu of foreclosure, and upon foreclosure of the Leasehold Mortgage or acceptance of an assignment and/or deed in lieu of foreclosure to the leasehold estate, take possession of the Leasehold Mortgage Property subject to the interests of the Project tenants.

- 6.3 **Owner’s Rights.** Owner will not be required (a) to pledge its fee interest in the Land to secure any Sublease or Leasehold Mortgage; (b) to subordinate the fee interest to the rights of any Subtenant or Mortgagee; or (c) to assume in any manner any liability of Tenant under any Sublease or Leasehold Mortgage. The Sublease must specify that the Sublease is limited to the Leasehold Interest. The Sublease must, by its own terms, have a stated expiration date which is prior to expiration of the Term. Tenant will cause a true, complete and correct copy of the original of each Sublease or Leasehold Mortgage, together with written notice containing the name and post office address of the holder thereunder, to be delivered to Owner within ten (10) days of Tenant’s execution and delivery of the Sublease or Leasehold Mortgage.
- 6.4 **Notices to Recognized Interest Holder.** Any Subtenant or Mortgagee may give notice to Owner of its name and address (who is sometimes referred to herein as a “**Recognized Interest Holder**”) in the manner provided in this Lease, and if the notice is given, Owner will give to the Recognized Interest Holder a copy of each notice of default given pursuant to Section 14.1 by Owner to Tenant (the “**Owner Notice**”) at the same time as and whenever any Owner Notice will thereafter be given by Owner to Tenant, addressed to the Recognized Interest Holder at its address last furnished to Owner (the “**Holder Notice**”). No notice by Owner to Tenant hereunder will be deemed to have been duly given unless and until a copy thereof has been served on the Recognized Interest Holder in the manner provided in this Lease.
- 6.5 **Recognized Interest Holder Provisions.** Owner agrees that it will not accept the surrender of the Land by Tenant prior to the termination of this Lease, or consent to the modification of any term of the Lease which materially alters the rights and obligations of the parties hereunder, or consent to the termination thereof by Tenant, without the prior written approval of each Recognized Interest Holder, in each instance, which approval will not be unreasonably withheld, conditioned or delayed. Owner further agrees that it will not seek to terminate the Lease or Tenant’s right of possession thereunder by reason of any act or omission of Tenant until:

- (1) Owner has given to each Recognized Interest Holder a copy of the Owner Notice with respect to the Event of Default, as defined hereafter in Section 14.1, upon which the proposed termination is based;
- (2) after the expiration of all applicable notice and grace periods set forth under the Lease with respect to the Event of Default (a “**Lease Default**”), Owner will have given written notice to each Recognized Interest Holder of the failure of Tenant to cure the lease Default. The Holder Notice will be sent by certified mail, return receipt requested or by a nationally recognized commercial overnight delivery service to the address designated in writing to Owner by each Recognized Interest Holder (or any other address as may hereinafter be designated in writing to Owner by each Recognized Interest Holder); and
- (3) a reasonable period of time will have elapsed following the receipt of the Holder Notice, during which period any Recognized Interest Holder will have the right, but will not be obligated, to remedy the lease Default, Owner agreeing to accept any remedy by any Recognized Interest Holder as if the same had been performed by Tenant.

As used herein, a reasonable period of time will be 60 days if the lease Default can be remedied during the 60 day period; provided, however, if the lease Default cannot be remedied during the 60 day period, then the period of time as is necessary to remedy the lease Default (not to exceed one-hundred twenty (120) days), provided any Recognized Interest Holder has commenced to cure the lease Default within the 60 day period and continues to diligently prosecute the same. Any default that, by its nature, is not capable of being cured by Recognized Interest Holder will be deemed cured whether or not the default is cured, but as to Recognized Interest Holder only and not as to Tenant. Further:

- (a) Owner will accept performance by any Recognized Interest Holder of any covenant, condition or agreement on Tenant’s part to be performed hereunder with the same force and effect as though performed by Tenant.
- (b) If the Recognized Interest Holder is a Mortgagee, then the time for the Recognized Interest Holder to cure any Lease Default by Tenant which reasonably requires that the Recognized Interest Holder be in possession of the Leasehold Mortgage Property to do so, will be deemed extended to include the period of time required by the Recognized Interest Holder to obtain the possession or obtain Tenant’s interest in the Leasehold Mortgage Property (by foreclosure or otherwise) with due diligence; provided, however, that the Recognized Interest Holder will have delivered to Owner its written commitment to cure outstanding Lease Defaults reasonably requiring possession of the Leasehold Mortgage Property and which are capable of being cured by the Recognized Interest Holder (which commitment may be revoked by Recognized Interest Holder by written notice to Owner); and further provided, however, that during the period all other obligations of Tenant under this Lease are being duly performed to the extent that the other obligations are capable of being performed by the Recognized Interest Holder, including but not limited the payment of rent and other monetary obligations due Owner.
- (c) The provisions of this Section 6.5 are for the benefit of each Recognized Interest Holder and may be relied upon and will be enforceable by each Recognized Interest Holder and their respective successors and assigns. Neither a Recognized Interest Holder nor any other holder or owner of the indebtedness secured by a Leasehold Mortgage or otherwise will be liable upon the covenants, agreements or obligations of Tenant contained in this Lease, unless and until the Recognized Interest Holder or that holder or owner acquires the interest

of Tenant, and then only to the extent set forth in this Section 6.5. Owner and Tenant agree to execute the documentation reasonably requested by a Recognized Interest Holder consistent with the terms and provisions of this Article 6.

- (d) Anything herein contained to the contrary notwithstanding, the provisions of this Section 6.5 will inure only to the benefit of all Recognized Interest Holders and their respective successors and assigns. If more than one the Mortgagee (one the Mortgagee being intended to include multiple mortgagees holding a single mortgage or deed of trust) will make written requests upon Owner for a new ground lease in accordance with the provisions of this Section, the new ground lease will be entered into pursuant to the request of the Recognized Interest Holder whose Leasehold Mortgage will be prior in lien thereto according to the records of Blaine County and thereupon the written requests for a new ground lease of each person junior in priority will be deemed to be void and of no force and effect.

#### 6.6 **Other Miscellaneous Provisions Concerning Leasehold Mortgages**

- (a) At Tenant's request, Owner will execute a written agreement with a Recognized Interest Holder in which Owner agrees that it consents to the granting of the Sublease or Leasehold Mortgage and that Owner will not disturb the tenancy or rights of the Recognized Interest Holder (its successors or assigns and any subsequent purchaser) so long as the Recognized Interest Holder (its successors or assigns and subsequent purchaser) cures any existing defaults as required herein and commits no default beyond the applicable notice and curative periods hereunder and is otherwise in full compliance with the terms of this Lease. Additionally, Owner will execute the other documentation reasonably requested to confirm the rights of a Recognized Interest Holder hereunder; provided, under no circumstances will Owner be responsible for the payment of the debt secured by the Leasehold Mortgage, and in no event will Owner's fee simple estate in the Land, including Owner's reversionary interest in the Project be subject or subordinate to any Sublease or the lien of the Leasehold Mortgage.
- (b) Owner agrees that it will promptly make the reasonable amendments or modifications of the Lease as are requested by any Recognized Interest Holder, provided that there will be no adverse change in any of the substantive rights, duties or obligations of Owner under this Lease. The preceding sentence is effective regardless of the fact that the Recognized Interest Holder may make the request prior to the execution of the applicable Sublease or Leasehold Mortgage; in that event, said amendments or modifications to the Lease will become effective as of the execution of the Sublease or Leasehold Mortgage.

### **ARTICLE 7 TAXES**

From and after the Commencement Date and continuing thereafter during the Term, Tenant will pay or cause to be paid all real and personal property taxes, general and special assessments, and all other charges, assessments and taxes of every description, levied on or assessed against the Land, the Project and other improvements located on the Land. Tenant will make all payments directly to the appropriate charging or taxing authority before delinquency. If, however, the law expressly permits the payment of any or all of the above items in installments (whether or not interest accrues on the unpaid balance), Tenant may, at Tenant's election, utilize the permitted installment method, but will pay each installment before delinquency. All payments of taxes or assessments will be prorated for the year in which this Lease commences and for the year in which the Lease terminates. Tenant will have the right to contest or review by legal proceedings, as permitted under applicable law, any assessed valuation, real estate tax, or assessment; provided that, unless

Tenant has paid the tax or assessment under protest, Tenant will furnish to Owner (i) proof reasonably satisfactory to Owner that the protest or contest may be maintained without payment under protest, and (ii) a surety bond or other security reasonably satisfactory to Owner securing the payment of the contested item or items and all interest, penalty and cost in connection therewith upon the final determination of the contest or review. Any amount already paid by Tenant and subsequently recovered by Owner or Tenant as the result of the contest or review will be for the account of Tenant.

## **ARTICLE 8 MAINTENANCE AND REPAIR**

Tenant agrees that it will, at its own expense, maintain or cause to be maintained the entire Land, the Project and any other improvements and appurtenances thereto and every part thereof, in good order, condition and repair and in accordance with applicable law. In the event any repairs required to be made under the provisions of this Lease are not made within thirty (30) days after written notice from Owner to do so, then Owner may, at its option, enter upon the Land and repair the same, and the cost and expense of the repairs, with interest at the applicable legal rate will be due and paid by Tenant to Owner upon demand.

## **ARTICLE 9 MECHANICS' LIENS**

Tenant will not suffer, create or permit any mechanic's liens or other liens to be filed against the fee interest of Owner in the Land or Project by reason of any work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Land or any part thereof through or under Tenant. If any mechanic's or laborer's liens or materialman's lien will be recorded against the Land or the Project, then within sixty (60) days after notice of the filing thereof, or fifteen (15) days after Tenant is served with a complaint to foreclose said lien or Owner advises Tenant in writing that Owner has been served with the complaint, whichever is earlier, Tenant will use commercially reasonable efforts cause the lien to be removed, or will transfer the lien to bond for the benefit of Owner pursuant to applicable law. If Tenant in good faith desires to contest the lien, Tenant will be privileged to do so, but in that case Tenant agrees to indemnify and save Owner harmless from all liability for damages, including attorneys' fees and costs, occasioned thereby and will, in the event of a judgment of foreclosure upon any mechanic's, laborer's or materialman's lien, cause the same to be discharged and removed prior to the execution of the judgment.

## **ARTICLE 10 CONDEMNATION**

10.1 **Interests of Parties on Condemnation.** If the Land or any part thereof will be taken for public purpose by condemnation as a result of any action or proceeding in eminent domain, or will be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Owner, Tenant and any Recognized Interest Holder in the award or consideration for the transfer, and the allocation of the award and the other effect of the taking or transfer upon this Lease, will be as provided by this Article 10.

10.2 **Total Taking.** If the entire Land is taken, then (a) the right of Tenant and each Subtenant to possess the Land under this Lease will terminate on the date title to the Land vests in the condemning authority; and (b) this Lease will terminate after Tenant and each Recognized Interest Holder has received all amounts that it may be entitled to receive with respect to the taking.

10.3 **Partial Taking.**

- (a) In the event of taking or transfer of only a part of the Land, leaving the remainder of the Land in a location, form, shape or reduced size as to be not effectively and practicably usable in the good faith opinion of Tenant (and each Subtenant, if any) for the operation thereon of the Project, taking into consideration the effect, if any, of the taking on the

availability of parking proximately located to the Project, and if Owner agrees with the determination of the Tenant (and each Subtenant, if any), which consent will not be unreasonably withheld, this Lease and all right, title and interest thereunder may be terminated by Tenant (and each Subtenant, if any) giving, within sixty (60) days of the occurrence of the event, thirty (30) days' notice to Owner of Tenant's (and each Subtenant's, if any) election to terminate.

- (b) In the event of a taking of only a part of the Land leaving the remainder of the Land in a location, form, shape or reduced size as to be used effectively and practicably in the good faith opinion of Tenant (and each Subtenant, if any) for the purpose of operation of the Project therein, this Lease will terminate only as to the portion of the Land so taken or transferred as of the date title to the portion vests in the condemning authority, and will continue in full force and effect as to the portion of the Land not so taken or transferred. If title and possession of a portion of the Land is taken under the power of eminent domain, and the Lease continues as to the portion remaining, all compensation and damages (“**Compensation**”) payable to Tenant (or the applicable Subtenant, if any) by reason of any improvements so taken will be available to be used, to the extent reasonably needed, by Tenant (or the applicable Subtenant, if any) in replacing any improvements so taken with improvements of the same type as the remaining portion of the Land.

10.4 **Allocation of Award.** Any Compensation awarded or payable because of the taking of all or any portion of the Land by eminent domain will be awarded in accordance with the values of the respective interests in the Land and all improvements thereon immediately prior to the taking. The value of Owner's interest in the Land immediately prior to a taking will include the then value of its interest in the Land prior to the Expiration Date of this Lease, together with the value of its reversionary interest in the Land and Project after the Expiration Date. The value of Tenant's interest in the Land immediately prior to a taking will include the then value of its interest in the Land and Project for the remainder of the Term. The values will be those determined in the proceeding relating to the taking or, if no separate determination of the values is made in the proceeding, those determined by agreement between Owner, Tenant and any affected Recognized Interest Holders. If the agreement cannot be reached, the values will be determined by an appraiser or appraisers appointed in the manner by agreement of the parties to the dispute, or if no agreement is reached within a reasonable period of time, then an appraiser or appraisers appointed by an arbitrator appointed under Idaho Uniform Arbitration Act. In the event of separate awards, then each party may retain the separate awards made to each and any of them. To the extent any outstanding amount under any Leasehold Mortgagee exists, then the outstanding balance of the Leasehold Mortgage will be satisfied first from Tenant's award or share of the award, and if the share is insufficient, then Tenant will pay the balance from its own resources.

10.5 **Voluntary Conveyance.** Any voluntary conveyance by Owner under threat of a taking under the power of eminent domain in lieu of formal proceedings will be deemed a taking within the meaning of this Article 10.

## ARTICLE 11 ASSIGNMENT

Tenant may not assign, sublease, convey or transfer this Lease or the Leasehold Estate, other than as expressly permitted in Article 5 and Article 6 of this Lease, without the prior written consent of Owner, which Owner will not unreasonably withhold. No assignment, sublease, conveyance or transfer of this Lease or the Leasehold Estate will release Tenant from this Lease, and Tenant will remain fully liable for all obligations binding upon Tenant under this Lease. In the event of an approved sale or transfer of Tenant's

interest in this Lease, any approved assignee will be required to assume in writing the “Tenant” obligations under this Lease.

## ARTICLE 12 INSURANCE AND INDEMNIFICATION

- 12.1 **Comprehensive Liability Insurance.** Tenant will, at its cost and expense, at all times during the Term, maintain in force, for the joint benefit of Owner and Tenant, a commercial general liability insurance policy or its equivalent issued by a carrier licensed to do business the State of Idaho with a Best’s Insurance Guide Rating of A+, by the terms of which Owner and Tenant, are named as insureds or additional insureds, as the case may be, and are indemnified against liability for damage or injury to the Land or person (including death) of any person entering upon or using the Land or the Project. The insurance policy or policies will be maintained on the minimum basis of \$1,000,000.00 for damage to property and for bodily injury or death as to any person, and \$1,000,000.00 as to any one accident. Owner reserves the right to require reasonable increases in the limits of coverage from time to time during the Term; and the requested increase will be deemed reasonable if consistent with commercially reasonable practices for similar projects in the same geographic area. The insurance policy or policies will be stated to be primary and noncontributing with any insurance which may be carried by Owner. Evidence of said insurance will be delivered to Owner on the Commencement Date, and evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at the maximum rate allowed by law, to Tenant, to be paid by Tenant.
- 12.2 **Fire and Extended Coverage Property Insurance.** Tenant will, at its cost and expense and at all times during the Term, maintain in force, for the joint benefit of Owner, Tenant and all Recognized Interest Holders, a policy of insurance against loss or damage to the Project by fire and lightning, and the other perils as are covered under a “Cause of Loss-Special Form” policy or equivalent together with the broadest form of the “extended coverage” or “all risk” endorsements, or equivalent, available in Idaho including damage by wind storm, hurricane, explosion, smoke, sprinkler leakage, vandalism, malicious mischief and any other risks as are normally covered by the endorsements. Owner will be named as an additional insured on the policy of insurance, and any Recognized Interest Holder will be named as required by the Sublease or Leasehold Mortgage, and subject to terms of the Sublease or Leasehold Mortgage any insurance proceeds will be applied in the manner as set forth in this Lease. The insurance will be carried and maintained to the extent of full (actual) replacement cost of the Project; provided however, that during the period of construction, Tenant will provide or cause to be provided in lieu thereof builders’ risk or similar type of insurance to the full replacement costs thereof. The insurance policy or policies will be stated to be primary and noncontributing with any insurance which may be carried by Owner. Evidence of said insurance will be delivered to Owner on the Commencement Date. Evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at Owner’s Interest Rate, to Tenant, to be paid by Tenant as additional rent hereunder. Owner will have no obligation to obtain insurance for the benefit of Tenant.
- 12.3 **Evidence of Insurance.** Evidence of the required liability insurance will be delivered to Owner on the Commencement Date. Evidence of the required property insurance will be delivered to Owner prior to construction of the Project. Evidence of renewal will be delivered to Owner not less than fifteen (15) days prior to the renewal date of any insurance policies during the Term. In the event

Tenant fails to timely pay any premium when due, Owner will be authorized, but not obligated, to do so, and may charge all costs and expenses thereof, including the premium and interest at Owner's Interest Rate, to Tenant, to be paid by Tenant as additional rent hereunder. Owner will have no obligation to obtain insurance for the benefit of Tenant.

- 12.4 **Waiver of Subrogation.** Owner and Tenant and all parties claiming under them mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by the casualty and liability insurance to be carried on the Project, the Land or in connection with any improvements on or activities conducted on the Land and the Project, and waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof, and evidence the waiver by endorsement to the required insurance policies, provided that the release will not operate in any case where the effect is to invalidate or substantially increase the cost of the insurance coverage (provided that in the case of increased cost, the other party will have the right, within thirty (30) days following written notice, to pay the increased cost, thereby keeping the release and waiver in full force and effect).
- 12.5 **Indemnification.** Tenant (and each Subtenant, but only with respect to the Subleased Property) hereby agrees to indemnify, defend and save Owner harmless from and against any third-party claims, losses, damages and expense (including attorneys' fees and costs through litigation and all appeals) in connection with the loss of life, personal injury and damage to property caused by (a) any occurrence in, upon, at or about the Land or Project; (b) the occupancy, use, construction upon and maintenance of the Land and Project by Tenant (or the applicable Subtenant), and its guests and invitees, and any party acting by, through or under any of them; and (c) any wrongful or negligent act or failure to act by Tenant (or the applicable Subtenant) or its employees, agents or contractors. Nothing contained herein will be construed to make Tenant or any Subtenant liable for any injury or loss caused by the negligence, gross negligence or willful misconduct of Owner or any agent or employee of Owner.

### ARTICLE 13 DAMAGE AND DESTRUCTION

- 13.1 **Tenant's Duty to Restore Property.** If any buildings or improvements now or hereafter on the Land are damaged and/or destroyed in whole or in part by fire, theft, the elements, or any other cause, this Lease will continue in full force and effect, and Tenant, at its sole cost and expense, will have the right to repair and restore the damaged or destroyed Project in any matter permitted by this Lease. The work of repair and restoration will be commenced by Tenant as soon as reasonably possible, with due consideration given to, among other things, clearing of damaged portions of the Land and site preparation, adjustment of insurance claims, redesign, rebidding and repermitting, obtaining a new loan or loans for construction or repair. Tenant will proceed diligently to commence repairs and restoration. Once construction has commenced, Tenant will proceed diligently thereafter to complete the construction or repair, subject to reasonable delays due to force majeure events or events beyond the reasonable control of Tenant. Tenant will not be responsible for delays caused by force majeure events or for reasons beyond the reasonable control of Tenant.
- 13.2 **Option to Terminate Lease for Destruction.** Notwithstanding Section 13.1 above, if the Project is damaged or destroyed by fire, theft or any other casualty, then Tenant will have the option of terminating this Lease by at least sixty (60) days' prior written notice of Tenant's intent to do so, If Tenant elects to terminate this Lease, then Tenant will also be required to remove, at Tenant's own expense, all debris and remains of the damaged improvements from the Land.



## ARTICLE 14 DEFAULTS AND REMEDIES

- 14.1 **Defaults.** Each of the following events will constitute an “**Event of Default**”:
- 14.1.1 Tenant’s abandonment of the Land, or the improvements now or hereafter constructed thereon, where the abandonment continues for a period of sixty (60) days after notice thereof by Owner to Tenant;
  - 14.1.2 Any violation of the Affordability Requirements or use restrictions set forth in this Lease; provided, however, as to any violations of the use restrictions by any Subtenant, tenant or occupant of the Project, then Tenant’s only obligation is to take reasonable action to stop the violation by the Subtenant, tenant or occupant promptly after receipt of written notice from Owner specifying the violation of the use restriction. The reasonable action may include legal or equitable actions to enforce the use restrictions against the Subtenant, tenant or occupant; provided, however, Tenant will not be obligated to pursue the termination of any Sublease or the eviction of the Qualified Tenant.
  - 14.1.3 Tenant’s failure to pay any monetary obligations of any nature whatsoever required to be paid by Tenant under this Lease when due and payable;
  - 14.1.4 Tenant’s failure to observe or perform any other material covenants, conditions or agreements under this Lease.
- 14.2 **Notice and Right to Cure.** As to any Event of Default occurring under this Lease, Tenant will have thirty (30) days after written notice is given by Owner specifying the nature of the default to cure the default; provided, however, that if after exercise of due diligence and its best efforts to cure the non-monetary default Tenant is unable to do so within the thirty (30) day period, then the curing period will be extended for the reasonable time as may be reasonably approved by Owner for curing the default, so long as Tenant continues to diligently prosecute to completion the curing of the default.
- 14.3 **Remedies.** If any default by Tenant will continue uncured upon expiration of the applicable curing period, then subject to the rights of any Mortgagee or Subtenant under this Lease, Owner may, at Owner’s election, terminate this Lease by notice to Tenant. All Tenant’s rights in the Land, the Project and in all improvements will terminate upon termination of this Lease. Promptly after any termination, Tenant will surrender and vacate the Land and the Project, and Owner may re-enter and take possession of the Land and the Project, subject to (a) any Subleases where the Subtenant is not in default beyond any applicable cure period; (b) any leases authorized pursuant to Article 5, all of which will remain in full force and effect; and (c) any federal or state affordability programs to which the Project (or individual residential units therein) may be bound. Termination under this paragraph will not relieve Tenant from the payment of any sum then due to Owner, or from any claim for damages previously accrued, or then accruing, against Tenant. Owner will utilize commercially reasonable efforts to mitigate damages in case an Event of Default will occur.

## ARTICLE 15 SURRENDER AND REMOVAL

Upon any termination of the Term, Tenant will surrender possession of the Land and all improvements constructed and installed thereon. Tenant may remove, or cause to be removed, all personal property, trade fixtures and equipment of Tenant, other than permanent fixtures, from the Land within thirty (30) days after the date of any termination of this Lease; thereafter all personal property, trade fixtures and equipment not removed will belong to Owner without the payment of any consideration.

## ARTICLE 16 HAZARDOUS MATERIALS

- 16.1 **Definition. “Hazardous Materials”** means any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems and those materials, substances and/or wastes, including infectious waste, medical waste, and potentially infectious biomedical waste, which are or later become regulated by any local governmental authority, the State of Idaho or the United States Government, including substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; all corresponding and related State of Idaho and local statutes, ordinances and regulations, including without limitation any dealing with underground storage tanks; and in any other environmental law, regulation or ordinance now existing or hereinafter enacted (collectively, “**Hazardous Materials Laws**”).
- 16.2 **Use of Property by Tenant.** Tenant (and each Subtenant, but only with respect to the Subleased Property) hereby agrees that it and its employees, representatives, agents, contractors, subcontractors, tenants, subtenants and any other occupants of the Land (for purpose of this Section 16.2, referred to collectively herein as “**Occupants**”) will not use, generate, manufacture, process, store or dispose of, on, under or about the Land except in compliance with applicable Hazardous Materials Laws, e.g., Occupants of the Project will have the right to use and store reasonable quantities of Hazardous Materials at the Project used by Tenant as cleaning and office supplies. store reasonable quantities of Hazardous Materials within the Project.
- 16.3 **Indemnification by Tenant.** Tenant (and each Subtenant, but only with respect to its Subleased Property) will indemnify, defend and hold Owner harmless from any claims, damages, losses or expenses (including reasonable attorneys’ fees and costs through litigation and all appeals) resulting from death of or injury to any person, or damage to any property, or government mandated remediation plans, arising from by (a) Tenant’s (or Subtenant’s, as applicable) failure to comply with any Hazardous Materials Laws with respect to the Land, or (b) a breach of any covenant, warranty or representation of Tenant (or Subtenant, as applicable) under this Article 16. The foregoing indemnification by Tenant and each Subtenant will not extend to Hazardous Materials on, in or about the Land prior to prior to the Commencement Date.

## ARTICLE 17 REPRESENTATIONS AND WARRANTIES

- 17.1 **By Owner.** Owner makes the following representations and warranties to Tenant: (a) Owner is duly organized and existing under the laws of its state of origin and has all requisite legal power and authority to execute, deliver and perform this Lease; (b) the execution, delivery and performance by Owner of this Lease have been duly authorized by all requisite entity action of Owner and there is no provision in its charter documents requiring further consent by any other person or entity; (c) this Lease constitutes the legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, reorganization, moratorium or similar laws affecting or limiting creditors’ rights generally or by equitable principles relating to enforceability; (d) Owner has fee title to the Land and there are no liens or encumbrances against the Land except as permitted under this Lease; and (e) Owner will not during the Term of the Lease cause or suffer any lien, claim or encumbrances

to exist against the Land by or through Owner, except as permitted by this Lease; (f) as long as Tenant is not in material default of this Lease (beyond any applicable cure period), Tenant will quietly hold, occupy and enjoy the Land during the Term without hindrance of Owner or any person claiming by, through or under Owner; and (g) Owner will cooperate with Tenant as reasonably necessary for Tenant to enjoy the benefits of this Lease, including executing any applications, consents or other instruments that are required (by applicable law or otherwise) to be executed by the fee simple owner of the Land, including any entitlement, subdivision or development applications.

- 17.2 **By Tenant.** Tenant makes the following representations and warranties to Owner: (a) Tenant is duly organized and existing under the laws of its state of origin and has all requisite legal power and authority to execute, deliver and perform this Lease; (b) the execution, delivery and performance by Tenant of this Lease have been duly authorized by all requisite entity action of Tenant and there is no provision in its charter documents requiring further consent by any other person or entity; (c) this Lease constitutes the legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, reorganization, moratorium or similar laws affecting or limiting creditors' rights generally or by equitable principles relating to enforceability; (d) Tenant has inspected the Land and accepts the Land in its as-is condition, except for Owner's representations, warranties and covenants under this Lease; and (e) Tenant will not during the Term of the Lease cause or suffer any lien, claim or encumbrances to exist against the Land by or through Tenant, except as permitted by this Lease.

## ARTICLE 18 NOTICES

Unless otherwise specifically required by this Lease or applicable law, any notices, approvals, consents or other communications required or permitted by this Lease or by applicable law to be served on, given to, or delivered to any party to this Lease must be writing and will be deemed duly served, given, delivered and received only when actually received by the receiving party (or delivery is refused by the receiving party). Delivery may be by any reasonable method. Each party agrees to give notice to the other parties of its address and any change of its address for the purpose of this section by giving written notice of the change to the other party in the manner herein provided. If any party fails to provide a current address for notices, then the other parties may serve notices to the then current address for the other party (or its registered agent) in the records of the Idaho Secretary of State or the records of the Blaine County Assessor. For so long as the City of Ketchum remains the Owner, then City of Ketchum may update its notice address by public notice.

## ARTICLE 19 GENERAL PROVISIONS

- 19.1 **Survival of Indemnities.** All representations, warranties and indemnities of Owner, Tenant and each Subtenant under this Lease will survive the expiration or sooner termination of this Lease.
- 19.2 **Unavoidable Delay; Force Majeure.** If either party will be delayed or prevented from the performance of any act required by this Lease by reason of acts of God, strikes, lockouts, labor troubles, pandemics, epidemics, inability to procure materials, restrictive governmental laws, or regulations or other cause, without fault and beyond the reasonable control of the party obligated, performance of the act will be excused for the period of the delay; and the period for the performance of any act will be extended for a period equivalent to the period of the delay.
- 19.3 **Interpretation.** Time is of the essence of any obligation where time is a factor. The use herein of any gender includes all other genders, and the use of the singular number includes the plural and

vice-versa, whenever the context so requires. Captions in this Lease are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Lease or any of the terms hereof. The word “including” will be construed without limitation, as if the words “but not limited to” appear immediately after. The words shall, will and must have the same meaning, which is mandatory. This Lease will not be construed in favor of any party hereto, but to be construed fairly and broadly toward effectuating the purposes hereof. If any term, provision, covenant or condition of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will remain in full force and effect and will in no way be affected, impaired or invalidated. For purposes of this Lease, the parties to this Lease includes Owner and Tenant, and if applicable, any Subtenant in possession of a Subleased Property, but only with respect to the Subleased Property.

- 19.4 **Entire Agreement.** This Lease contains the entire agreement between the parties regarding the subject matter hereof. Any other oral or written representations, agreements, understandings and/or statements will be of no force and effect.
- 19.5 **Waiver; Amendment.** No modification, waiver, amendment, discharge or change of this Lease will be valid unless the same is in writing and signed by the party against which the enforcement of the modification, waiver, amendment, discharge or change is or may be sought. Owner and Tenant agree that they will not amend this Lease with respect to any Subleased Property without the prior written consent of the Subtenant thereof.
- 19.6 **Attorney’s Fees.** If either party retains an attorney to enforce or interpret this Lease, the prevailing party will be entitled to recover reasonable attorneys’ fees and litigation costs incurred through litigation, bankruptcy proceedings and all appeals.
- 19.7 **Governing Law.** This Lease will be construed and enforced in accordance with the laws of the State of Idaho.
- 19.8 **Binding Effect.** This Lease will bind, and inure to the benefit of, the parties and their respective successors and permitted assigns.
- 19.9 **Estoppel Certificates.** Either party will execute, acknowledge and deliver to the other party, within twenty (20) days after the request by the other party, a statement in writing certifying, if it is the case, that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified); the date of commencement of this Lease; the dates for which the rent and other charges have been paid; any alleged defaults and claims against the other party; and providing any other information as may be reasonably requested.
- 19.10 **Waiver of Trial by Jury.** EXCEPT AS OTHERWISE PROVIDED BY LAW, OWNER AND TENANT MUTUALLY, EXPRESSLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY FOR ANY PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, OR ANY CONDUCT OR COURSE OF DEALING OF THE PARTIES, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSONS. THIS WAIVER IS A MATERIAL INDUCEMENT TO OWNER TO ACCEPT DELIVERY OF THIS LEASE.

[ end of text; counterpart signature pages follows ]





**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE LAND**

**EXHIBIT B**  
**CONCEPT PLANS FOR PROJECT**