RESOLUTION NUMBER 03-042

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH HEATHER LAMONICA TO PROVIDE SERVICES TO THE CITY FOR THE PROMOTION OF THE KETCHUM WAGON DAYS EVENT

WHEREAS, the City of Ketchum desires to promote business by enhancing the visitor and resident experience in the Ketchum/Sun Valley area with the Ketchum Wagon Days event; and

WHEREAS, Contractor has the expertise necessary to promote, organize, manage, coordinate and produce the Ketchum Wagon Days event.

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

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

2. The City Council of the City of Ketchum, Idaho hereby authorizes and instructs the Mayor of said City to enter into an Agreement Heather LaMonica to provide services to the City for the promotion, general management, and production of Ketchum's Wagon Days event.

PASSED by the City Council, and APPROVED by the Mayor this 6st day of October, 2003.

CITY OF KETCHUM

By _____
EDWARD SIMON
Mayor

ATTEST:

Sandra E. Cady, CMC
City Clerk

INDEPENDENT CONTRACTOR AGREEMENT
(City of Ketchum /Heather LaMonica)

THIS INDEPENDENT CONTRACTOR AGREEMENT is made and entered into effective of the sixth day of October, 2003 by and between Heather LaMonica (the "Independent Contractor") and the City of Ketchum

RECITALS

WHEREAS, City of Ketchum desires to promote business by enhancing the visitor and resident experience in the Ketchum/Sun Valley area with the Ketchum Wagon Days event; and

WHEREAS, Independent Contractor has the expertise necessary to promote, organize, manage, coordinate and produce the Ketchum Wagon Days event.

NOW THEREFORE, Independent Contractor agrees to promote, organize, manage, coordinate and produce Ketchum Wagon Days according to the terms and conditions of this Agreement, which are as follows:

1. **Description of Services.** Independent Contractor shall complete duties as outlined in Addendum 1.

2. **Payment for Service.** In exchange for the above-referenced services, the City of Ketchum shall pay Independent Contractor as follows:

   Professional service fee of $17,200 paid in 12 monthly installments on the 15th of each month, beginning October 1, 2003 and after final accounting on the project has been completed, but no later than September 30, 2004.

3. **Term.** This Agreement shall be effective as of the date first above written and shall terminate on September 30, 2004.

4. **Independent Contract/No Partnerships or Employee Relationship.** By executing this Agreement, the parties hereto do not intend to create a partnership, joint venture, agency, employee/employer relationship or any other relationship other than that of independent contractor. Neither party shall have the power to bind the other in any manner whatsoever.

   In rendering the services contemplated by this Agreement, Independent Contractor is at all times acting as an independent contractor and not as an employee of the City of Ketchum. Independent Contractor shall have no rights or obligations as an employee by reason of this Agreement and City of Ketchum shall not provide Independent Contractor with any employee benefits, including without limitation, any City of Ketchum sponsored retirement, vacation or health insurance program. The City of Ketchum shall not exercise any control over the manner in which the Independent Contractor performs the obligations contemplated herein, except to specify the time and place of performance. Contractor shall provide, at her sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, insurance, all necessary equipment and facilities to provide the professional services as set forth in this Agreement.

The City of Ketchum shall not withhold any local, state, or federal payroll or employment taxes of any kind from any compensation paid to Independent Contractor. Independent Contractor hereby warrants and represents that she will pay all such employment and payroll taxes, if any, and hereby releases, holds harmless and indemnifies the City of Ketchum, officers, members, employees and agents thereof from any and all costs, expenses or liability of any kind whatsoever that may be incurred as a result of Independent Contractor's failure to pay such payroll or employment taxes, including, without limitation, the 100% penalty.

5. **Assignment.** Neither party hereto shall assign any of its rights or obligations under this Agreement to any other person or entity.

6. **Representations and Warranties by Independent Contractor**. Independent Contractor hereby represents and warrants that she has the knowledge, experience and expertise to promote, organize, manage, coordinate and produce Ketchum Wagon Days.

7. **Default.** In the event either party hereto defaults in its performance of any of the obligations created hereunder, the other party may pursue any and all remedies whether at law or equity.

8. **Attorney's Fees.** If either party defaults hereunder, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney to make any demand, or otherwise protect or enforce its rights herein. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including court costs and a reasonable attorney's fee. Failure of the defaulting party to pay the same upon demand shall constitute a further and additional default hereunder.

9. **Partial Invalidity.** In the event any portion of this Independent Contractor Agreement or part thereof shall be determined invalid, void or otherwise unenforceable, the remaining provisions hereunder, or part thereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby, it being understood that such remaining provisions shall be construed in a manner most closely approximating the intention of the parties with respect to the invalid, void or unenforceable provision or part thereof.

10. **Waiver.** In the event of any default hereunder by either party, if the other party fails or neglects for any reason to demand full performance, such failure or neglect shall not be deemed to be a waiver of the right to demand full performance or a waiver of any cause of action, or as a waiver of any of the covenants, terms or conditions of this Agreement or of the performance thereof. None of the covenants, terms or conditions of this agreement can be waived by either party hereto except by appropriate written instrument.

11. **Paragraph Headings.** The paragraph headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the respective paragraphs.

12. **Amendments.** This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by further agreement in writing duly executed by the parties hereto.

13. **Entire Agreement**. This Agreement contains the entire agreement between the parties hereto.

14. **Applicable Law.** This Agreement will be interpreted in accordance with the laws and statues of the State of Idaho.

15. **Binding Effect**. This Agreement shall be binding upon and insure to the benefit of the respective successors, heirs and assigns of the parties hereto.

16. **Time is of the Essence**. Time is hereby made expressly of the essence in every term, condition, covenant and obligation set forth in this Agreement.

17. **Legal Representation/No Presumptions**. The parties acknowledge the City Attorney has provided legal representation to City of Ketchum in connection with this transaction. Independent Contractor has retained ____none_____(Write none if none) to represent her in this matter and has had full opportunity to review all aspects of this Agreement with said legal counsel of her choice prior to signing this Agreement.

18. **Counterparts/Fax Copies and Signatures.** This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof. Fax copies and the original and faxed signatures theron shall have the same force and effect as originals.

IN WITNESS WHEREOF, the parties hereto have executed this Independent Contractor Agreement as set forth above.

INDEPENDENT CONTRACTOR

Heather LaMonica

Heather LaMonica

CITY OF KETCHUM

Edward Simon, Mayor

ATTEST:

SANDRA E. CADY, CMC
City Clerk