RESOLUTION NUMBER 06-014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR SERVICES RELATING TO DOWNTOWN MASTER PLANNING WITH THE HUDSON COMPANY IN AN AMOUNT NOT TO EXCEED $128,885.

WHEREAS, the City desires to obtain expert consulting services necessary to master plan the downtown area; and

WHEREAS, The Hudson Company has such expertise and has offered to provide such services in an amount not to exceed $128,885; and

WHEREAS, The Hudson Company has satisfactorily completed Phase 1 of the Downtown Master Plan and the City Council prefers to maintain consistency with Phase 1 and Phase 2 of the Downtown Master Plan; and

WHEREAS, the City desires to enter into a contract for such services with The Hudson Company; and

WHEREAS, pursuant to Idaho Code §50-301, the City of Ketchum is empowered to enter into contracts as may be deemed necessary to promote the public health, safety, and welfare of Ketchum and its residents; and

WHEREAS, the City Attorney shall review and approve such contract before the Mayor shall execute it.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Ketchum, Idaho that the City Council hereby authorizes the Mayor to execute an agreement for services relating to downtown master planning with The Hudson Company in an amount not to exceed $128,885.

This Resolution will be in full force and effect upon its adoption this sixth (6th) day of February 2006.

CITY OF KETCHUM, IDAHO

Randall Hall, Mayor

ATTEST:

Sandra E. Cady, CMC
City Treasurer/Clerk

APPROVED AS TO FORM AND CONTENT:

Benjamin W. Worst
City Attorney

CONTRACT FOR SERVICES
DOWNTOWN KETCHUM MASTER PLAN

THIS CONTRACT is made this 16th day of March, 2006, by and between the City of Ketchum, an Idaho municipal corporation (hereinafter referred to as "CLIENT"), whose mailing address is PO Box 2315, Ketchum ID, 83340, and THE HUDSON COMPANY, an Idaho corporation (hereinafter referred to as "CONSULTANT"), whose mailing address is P.O. Box 8645, Moscow, Idaho 83843.

The parties mutually agree as follows:

1. **REQUIRED WORK.** The CONSULTANT shall perform the services specified in SCOPE OF WORK set forth in **Attachment 1** to this CONTRACT, the terms and conditions of which are incorporated herein by reference, in accordance with terms and conditions as defined herein. Deliverables to be produced by CONSULTANT in performance of the SCOPE OF WORK also are set forth in **Attachment 1**.

2. **COMPENSATION FOR SERVICES.** CLIENT in full consideration of the services to be performed under this CONTRACT, agrees to pay CONSULTANT a sum not to exceed $113,975 (ONE HUNDRED THIRTEEN THOUSAND NINE HUNDRED SEVENTY-FIVE DOLLARS) for professional services and a sum not to exceed $14,910 (FOURTEEN THOUSAND NINE HUNDRED TEN DOLLARS) for expenses, estimated per **Attachment 2**, the terms and conditions of which are incorporated herein by reference, for a total not to exceed $128,885 (ONE HUNDRED TWENTY EIGHT THOUSAND EIGHT HUNDRED EIGHTY-FIVE DOLLARS).

Expenses will be billed monthly at cost, except per diem, which will be billed at $30 per day of travel, and mileage, which will be billed at 39.5¢ per mile. CONSULTANT will be responsible for submitting monthly invoices for all consulting work hours completed. The CLIENT will make payments promptly to CONSULTANT based on monthly invoices and in accordance with the following schedule:

Execution of Contract	20% (Of Total Fees and Expenses)
Monthly Billings	Percentage of Completion, Up to 80% (Of Total Fees and Expenses)
Acceptance of Final Report	20% (Of Total Fees and Expenses)

By mutual written agreement, the CONTRACT may be amended from time to time to include additional planning services and fees as may be needed to pursue the primary purpose of this CONTRACT, development of the Ketchum Downtown, Warm Springs and River Run Areas.

3. **PERFORMANCE SCHEDULE.** Unless otherwise specified in writing, all work shall begin February 7, 2005 and be completed no later than June 30, 2006. CONSULTANT will provide the CLIENT a monthly written progress report and invoice for work completed. Invoices will specify percentage of completion of each item in the SCOPE OF WORK.

Should the CLIENT have any concerns about the quality or progress of work, the CLIENT will provide a written notice to this effect, including specific concerns and recommendations for remedy. Absence of such a written notice sent within two weeks of receipt of the progress reports will indicate the CLIENT's satisfaction with quality and progress of work to date. Should additional work be authorized by the CLIENT, the CLIENT and CONSULTANT will review the time schedule and jointly agree on a completion date.

4. **CONFLICT OF INTEREST.** The CONSULTANT covenants that it presently has no interest and shall not acquire an interest directly or indirectly which will, in the determination of the CLIENT, conflict in any manner or degree with the performance of its services hereunder.

5. **INDEMNIFICATION AND INSURANCE.** The CONSULTANT shall protect, indemnify, and save the CLIENT harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons or property or claims for money damages arising from acts or omissions of CONSULTANT, its employees, or subcontractors, however caused.

6. **CONTRACT RELATIONSHIP.** It is distinctly and particularly understood that the CONSULTANT is an independent contractor in the performance of each and every part of this CONTRACT. The CONSULTANT is not an employee of the CLIENT and will perform all services free from supervision, direction or control of the CLIENT. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor. As independent contractors, neither CONSULTANT nor CLIENT shall have any authority, express or implied, to commit or obligate the other in any manner whatsoever, except as specifically authorized from time to time in writing by an authorized representative of CONSULTANT or CLIENT, as the case may be, which authorization may be general or specific.

7. **LIABILITY.** The CONSULTANT shall exonerate, indemnify and hold the CLIENT harmless from and against and assume full responsibility for payment of all federal, state, and local taxes or contribution imposed or required under unemployment insurance, social security, workers compensations, and income tax laws with respect to Consultant's employees engaged in the performance of this contract. The CONSULTANT will be responsible for maintaining workers compensation insurance and will provide certificate of same, if required. The CLIENT will not assume liability as an employer.

8. **WORKER'S COMPENSATION INSURANCE.** CONSULTANT shall maintain during the life of this CONTRACT, Worker's Compensation Insurance for all of CONSULTANT'S employees performing work on this project and in case of any work that is sublet, CONSULTANT shall require any subcontractor, similarly, to provide Worker's Compensation Insurance for all the latter's employees as specified by Idaho law unless such employees are covered by the protection afforded by the CONSULTANT. In case any class of employees engaged in work under this CONTRACT is not protected under Worker's Compensation statutes, CONSULTANT shall provide and shall cause such subcontractor to provide compensation insurance in an amount equal to that provided by the Worker's Compensation statute for the protection for subcontractor's employees not otherwise protected.

9. **NOTICES.** Any and all notices required to be given by either of the parties hereto, unless otherwise stated in this CONTRACT, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt request, addressed as followed:

Harold Moniz, City Planner
City of Ketchum
PO Box 2315
Ketchum ID, 83340

(and)

Tom Hudson, Principal
THE HUDSON COMPANY
P.O. Box 8645
Moscow, Idaho 83843

Either party may change their address for the purpose of this paragraph by giving written notice of such change to the either in the manner herein provided.

10. **TIME IS OF THE ESSENCE.** The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this CONTRACT by the party so failing to perform. Should the parties determine mutually that the timeline for services under this contract needs to be amended, amendment to the CONTRACT'S timeline and duration must be agreed to in writing by both parties.

11. **ASSIGNMENT.** It is expressly agreed and understood by the parties hereto, that CONSULTANT shall not have the right to assign, transfer, hypothecate or sell any of its rights under this CONTRACT except upon the prior expressed written consent of CLIENT.

12. **PUBLICATION, REPRODUCTION AND USE OF MATERIAL.** All material produced in whole or in part under this CONTRACT shall be the exclusive property of the CLIENT. CONSULTANT hereby grants and assigns to CLIENT all rights to use any work product and to develop, manufacture, market or otherwise commercialize any product based on, directly related to or directly making use of the work set forth in Attachment 1.

13. **RELEASE OF INFORMATION.** CONSULTANT will work with the media, under supervision of CLIENT, to distribute public information about the project. Such information may include progress updates, meeting notices, and results from the planning process.

14. **COMPLIANCE WITH LAWS.** In performing the scope of services required hereunder, CONSULTANT and CLIENT shall comply with all applicable laws, ordinances, and codes of Federal and State governments.

15. **FAILURE TO PERFORM.** Upon any substantial failure to perform this agreement by either party, the other party shall be entitled to the following remedy:

a. Stop performing or accepting performance of the contract until the matter is resolved.

b. Where appropriate, obtain completion of the performance of the remaining balance of the contract with the original party. Upon discovery of the problem or defect, mail a written description of it to the other party, and:

1. If the defect can be cured, demand specific remedial action within a specified reasonable time; or

2. If the defect cannot be cured, specify any alternative performance which would be acceptable in lieu of the required performance and a specified time within which the alternative performance would be required; or
3. If the defect cannot be cured and no alternative performance is acceptable, the other party shall thereupon have the right to terminate this CONTRACT by giving written notice to the party-in-violation of such termination and specifying the effective date thereof at least fifteen (15) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by CONSULTANT under this CONTRACT shall, at the option of the CLIENT, become its property, and CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily complete hereunder.

c. Any other legal or equitable remedy.

16. **ENTIRE CONTRACT.** This CONTRACT, and exhibits attached hereto, 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. **APPLICABLE LAW**: This CONTRACT shall be governed by, construed and enforced in accordance with the laws of the State of Idaho.

18. **REPRESENTATION/NO PRESUMPTIONS.** All parties to this Agreement have been advised to seek independent counsel in the negotiating, drafting and execution of this Agreement. To the extent that a party chooses not to obtain independent counsel, that party acknowledges that it has been advised to obtain counsel, knows it has that right, knowingly waives that right, understands the terms of this Agreement, and enters this Agreement with full knowledge of the rights, duties, and obligations it is undertaking by signing this Agreement. No presumption shall exist in favor of or against any party to this Agreement as a result of the drafting and preparation hereof.

19. **COUNTERPARTS/FAX 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 of this Agreement and the original and faxed signatures thereon shall have the same force and effect as originals.

IN WITNESS WHEREOF, the CLIENT and the CONSULTANT have executed this CONTRACT the day and year first above written.

CITY OF KETCHUM,
An Idaho municipal corporation

BY_____
Randy Hall, Mayor

ATTEST:

For Patricia Bennett
SANDRA E. CADY, CMC
City Clerk

APPROVED AS TO FORM AND CONTENT EXCLUSIVELY FOR THE CITY OF KETCHUM

_____
BENJAMIN W. WORST,
City Attorney

THE HUDSON COMPANY,
an Idaho corporation

BY:_____
Tom Hudson, Principal

Attachment 1, Scope of Work

Deliverables for the Downtown Master Plan will include:

- Downtown Master Plan, Including
  - 5-Year Implementation/Action Plan
  - Parking master plan refinements to support adoption and implementation
  - Circulation plan for both "through" and "to" traffic
  - Plan view graphic of recommended parking and circulation system
  - South Gateway development plan with vision poster showing key elements
  - Prototypical block pattern poster for Main
  - Prototypical block pattern poster for Sun Valley Road
  - Specifications for gateway(s) locations & design
  - Specifications for directional signage, information kiosks and locations
  - Plan view poster of recommended urban design system including, streetscapes, circulation, pathways, public places, and key buildings
- Form-based zoning code, ready for adoption and to replace current code
- Technical memorandum: Economic impacts of 3-lane option for Main
- PowerPoint Overview of Downtown Master Plan
- Inventory of potential resources to support Master Plan implementation (approximately 100 resources linked to uses)

To accomplish these tasks, the planning process and timeline will incorporate:

- Monthly Council/Staff workshops on Master Plan elements & issues
- Council/Staff/Partners Master Plan Implementation workshop
- Bimonthly community workshops, including Designfest, on Master Plan elements & issues. Goals: Public participation & education.

CONSULTANT will complete the Master Plan in five months, focusing on seven major steps. These steps emphasize community engagement and participation similar to work in the Ketchum Downtown Development Framework project. CONSULTANT will give priority to team and capacity building throughout the process. In this way, the City and its partners will be optimally prepared to implement the Master Plan immediately upon adoption. A detailed list and description of potential resources will be included to supplement community resources. The two-part table presented on the next page outline, the seven steps, actions and timeline.

Step	Action / Details	Month: Feb	Mar	Apr	May	Jun
1	Engage & inform the community on Master Plan design elements					
a.	Facilitate staff workshop to finalize deliverables, staff roles & consulting team activities (teleconference)	♦				
b.	Conduct Downtown Ketchum Designfest: Community-based design workshop	♦				
i.	Organize; Prepare educational materials for Designfest; promote participation	♦				
ii.	Conduct Designfest	♦				
iii.	Summarize, report and promote results of Designfest.	♦				
c.	Conduct a Council/Commission/staff workshop on Designfest results; identify City design priorities for Master Plan	♦				
d.	Conduct Council/Commission/staff update workshops each month on Master Plan progress and options		♦	♦	♦	
e.	Conduct community workshops every other month on Master Plan progress and options		♦	♦	♦	
f.	Conduct implementation workshop for Council, Commission, staff and partners upon completion of Master Plan					♦
2	Organize the Master Plan entities & team for implementation	♦	♦			
a.	Define organizational system, roles, responsibilities for all implementation entities & partners	♦	♦			
b.	Guide organization of Community Development Corporation	♦	♦			
i.	Help City refine articles of incorporation, bylaws and list of potential board members	♦				
ii.	Facilitate first meeting of Board of Directors; conduct training workshop; organize working committees		♦			
iii.	Identify and evaluate means and systems for funding recommended public improvements			♦	♦	♦
3	Define the physical improvement details					
a.	Wayfinding: Specify system of gateways, directional signage, kiosks to support wayfinding in downtown districts		♦			
b.	Circulation					
i.	Define and illustrate circulation system for both "To" and "Through" traffic in downtown districts; include evaluation of alley ways		♦			
			♦			
ii.	Specify system of pedestrian/bicycle pathways; identify means to improve the pedestrian-oriented streetscape Program		♦			
			♦			
iii.	Specify a system of improvements to enhance Main & Sun Valley Road		♦			
	Specify system of pedestrian amenities and enhancements		♦			
	With City staff, evaluate 3-lane option for Main as means to enhance pedestrian environment & safety	♦	♦	♦		
c.	Parking					
i.	Integrate Parking Plan into Master Plan to address onstreet, offstreet, and structured parking needs	♦	♦	♦		
ii.	Recommend improvements to number, location, character & type of parking units			♦		
iii.	Identify and evaluate means to fund parking improvements			♦		
d.	Public Places					
i.	Prepare recommendations for location, general design, amenities and uses of a system of public places	♦	♦	♦		
ii.	Civic Center: Identify & evaluate alternatives for enhancing City government presence & location in Downtown	♦	♦	♦		
iii.	Prepare prototypical block pattern posters for Main and for Sun Valley Road					
iv.	Prepare South Gateway (6-Block) Development Plan for land use, streetscapes, parking, circulation, building heights, setbacks. Include vision poster illustrating all key elements. Work with property owners.					
v.	Integrate system of public places with circulation system		♦	♦	♦	♦

Step	Action / Details	Month: Feb	Mar	Apr	May	Jun
4	Prepare an affordable employee housing strategy					
a.	Organize and define a system for creation of a dynamic affordable housing construction program	♦	♦	♦	♦	
b.	Outline an action plan for implementation of the affordable housing construction program	♦	♦	♦	♦	
5	Enhance the regulatory system					
a.	Downtown Form & Fabric					
i.	Conduct P&Z Commission workshop on form-based code	♦				
ii.	Prepare a plan view urban design vision poster including envisioned infill, streetscapes, parking, public places, circulation, & existing buildings.		♦	♦		
iii.	Prepare downtown form-based code that addresses uses, density, building heights, view corridors		♦	♦	♦	
iv.	Prepare a system of graphics to illustrate code intentions; integrate graphics into code		♦	♦	♦	
v.	Identify means to strengthen the Design Review and enforcement process		♦	♦	♦	
6	Refine Downtown Business Support System			♦	♦	
a.	Business Development			♦	♦	
i.	Identify a system to enhance conditions for small business retention and strategic recruitment			♦	♦	
ii.	Define key market niches for Commercial Core & means to strengthen them					
7	Prepare Master Plan					
a.	Prepare PowerPoint overview of Master Plan for presentation to Council, Commission, staff and public				♦	
	Present PowerPoint overview to Council, staff and public; obtain refinements to Plan elements				♦	
	Prepare written Master Plan				♦	♦
	Present final Master Plan at Implementation Workshop for Council, Commission, staff and partners					♦

CONSULTANT will engage Urban Design Studio for design-oriented elements. Graphics will incorporate Sketchup for 3D solids modeling wherever appropriate. Our poster products will be similar in quality and format to those we created in Phase 1. The final report will be produced in Microsoft Word, with a summary/overview in Microsoft PowerPoint.

Attachment 2, Details of Consultant's Fees and Expenses

The not-to-exceed fee for this work, now including a Gateway Development Plan for the Downtown southern gateway, is $113,975. Expenses are $14,910. Total fee and expenses are not-to-exceed $128,885, per the summary table below.

Fee for Professional Services				$113,975
Expenses	Trips/Days		@	
Air Travel Hudson	5	$	440	$2,200
UDS Team	10	$	450	$4,500
Rental Car	24	$	50	$1,200
Mileage				$120
Lodging	45	$	100	$4,500
Per diem	59	$	30	$1,770
Printing/Supplies				$500
Telephone				$120
Total Expenses				$14,910
Total Fee & Expenses				$128,885

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

J. Evan Robertson
Robertson, Hepworth, Slette, Worst & Stover, PLLC
P.O. Box 1906
Twin Falls, Idaho 83303

(Space above line for Recorder's Use)

QUITCLAIM DEED

FOR VALUE RECEIVED, CITY OF KETCHUM, an Idaho municipal corporation, hereinafter referred to as "Grantor", does hereby convey, release, remise and forever quitclaim unto SIMPLOT KETCHUM PROPERTIES, LLC, an Idaho limited liability company, whose address is 999 Main Street, Suite 1300, Boise, Idaho 83702, hereinafter referred to as "Grantee", all right, title and interest Grantor now has in that certain real property located in Blaine County, Idaho, comprised of certain portions of the public rights of way more particularly described as follows:

THE PORTION OF FIFTH STREET WEST BETWEEN SECOND AVENUE NORTH AND THIRD AVENUE NORTH (FIFTH STREET WEST BETWEEN BLOCKS 65 & 66, KETCHUM TOWNSITE); and

THE ALLEY LOCATED WITHIN BLOCKS 65 & 66, KETCHUM TOWNSITE, FROM SIXTH STREET WEST TO FOURTH STREET WEST.

To have and to hold the said premises and their appurtenances unto the said Grantee and to its successors and assigns forever.

DATED this 8th day of February 2006.

"GRANTOR"

CITY OF KETCHUM,
an Idaho Municipal Corporation

By: _____
Randall Hall, Mayor

ATTEST:

Sandra E. Cady, CMC
City Clerk/Treasurer

APPROVED AS TO FORM AND CONTENT EXCLUSIVELY FOR THE CITY OF KETCHUM:

Benjamin W. Worst,
City Attorney

STATE OF IDAHO)
)ss.
County of Blaine)

On this 8th day of February, 2006, before me, a Notary Public for said state, personally appeared RANDALL HALL, the Mayor of the City of Ketchum, an Idaho municipal corporation, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said municipal corporation.

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

SANDRA E. CADY NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at: Hailey ID
My commission expires: 11-20-07