

**RESOLUTION NUMBER 06-016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR SERVICES RELATING TO IMPLEMENTATION OF THE DOWNTOWN MASTER PLAN WITH THE HUDSON COMPANY IN AN AMOUNT NOT TO EXCEED \$57,745.

WHEREAS, the City desires to obtain expert consulting services necessary to implement portions of the Downtown Master Plan and other associated projects the City Council deems necessary; and

WHEREAS, The Hudson Company has such expertise and has offered to provide such services in an amount not to exceed \$57,745; and

WHEREAS, The Hudson Company has satisfactorily completed Phase I 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.

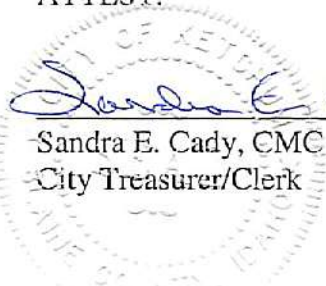

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Ketchum, Idaho that the City Council hereby authorizes the Mayor to execute an agreement for services relating to implementation of the Downtown Master Plan with The Hudson Company in an amount not to exceed \$57,745.

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

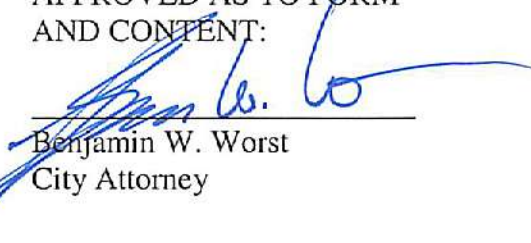
CITY OF KETCHUM, IDAHO

  
Randall Hall, Mayor

ATTEST:

  
  
Sandra E. Cady, CMC  
City Treasurer/Clerk

APPROVED AS TO FORM  
AND CONTENT:

  
Benjamin W. Worst  
City Attorney

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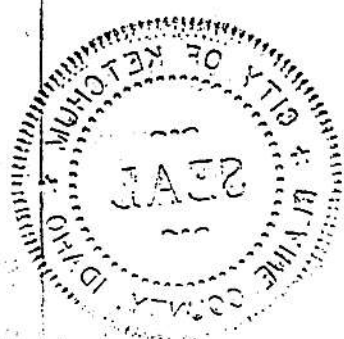
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**CONTRACT FOR SERVICES  
DOWNTOWN KETCHUM SPECIAL PROJECTS**

THIS CONTRACT is made this 16<sup>th</sup> day of March, 2006, by and between the City of Ketchum, an Idaho municipal corporation (hereinafter referred to as "CLIENT"), whose mailing address is P.O. Box 2315, Ketchum ID, 83340, and THE TOM 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 \$50,925 (FIFTY THOUSAND NINE HUNDRED TWENTY FIVE DOLLARS) for professional services and a sum not to exceed \$6,820 (SIX THOUSAND EIGHT HUNDRED TWENTY DOLLARS) for expenses, estimated per **Attachment 2**, the terms and conditions of which are incorporated herein by reference, for a total not to exceed \$57,745 (FIFTY SEVEN THOUSAND SEVEN HUNDRED FORTY-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 10, 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.

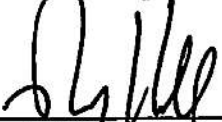
17. **APPLICABLE LAW:** This CONTRACT shall be governed by, construed and enforced in accordance with the laws of the State of Idaho.

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

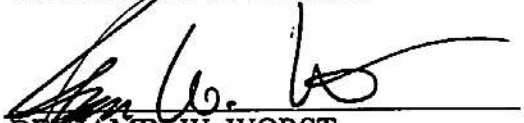
THE TOM HUDSON COMPANY,  
an Idaho corporation

BY:   
Tom Hudson, Principal

ATTEST:

  
For: SANDRA E. CADY, CMC  
City Clerk

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

  
BENJAMIN W. WORST,  
City Attorney



## Attachment 1, Scope of Work

Step	Action Details	Month				
		Feb	Mar	Apr	May	Jun
<b>1 Initiate and manage strategic Master Plan programs:</b>						
a.	Interim CDC Director: Direct activities of CDC under direction of Board & guidance of Council	♦	♦	♦	♦	♦
i.	Community Development Corporation: Facilitate effort to organize CDC; guide creation of articles & bylaws	♦	♦	♦		
ii.	Prepare a 5-year CDC work program				♦	♦
iii.	Coordinate operations of CDC during contract period				♦	♦
	Business Operations: Organize & facilitate monthly meetings of Board, including training workshop					
	Business Operations: Communicate with Board & committees as necessary to facilitate CDC activities					
	Business Operations: Coordinate the ongoing business activities of the CDC					
	Assumption: City will provide accounting, legal and clerical support functions					
	<b>\$ 12,005 Total Fee (Not Including Travel-related Expenses)</b>					
b.	Housing: Establish affordable employee housing program for City	♦	♦	♦	♦	♦
i.	Identify a parcel of publicly owned land that would become an affordable housing development project. (More than 100,000 square feet, number of housing/parking units, development process overview, rough cost, preliminary feasibility. Process guided by insights from local real estate/construction professionals and affordable housing specialists. Action plan, including: Funding options/recommendations, development process description/steps, time line, ownership recommendations, management recommendations.	♦	♦	♦		
ii.	Meet with staff, Council, Commission to present concept plan and refine it.				♦	♦
iii.	With City refinements in place, prepare an action plan for development of the project.					
	<b>\$ 7,380 Total Fee (Not Including Travel-related Expenses)</b>					
c.	Urban Renewal District: Guide organization and startup of Agency					
i.	Conduct Council/Commission/Staff workshop on organization & startup issues; guide startup decisions					
ii.	Prepare a 5-year work program for URD	♦	♦	♦	♦	♦
iii.	Meet with URD Board monthly					
	<b>\$ 7,500 Total Fee (Not Including Travel-related Expenses)</b>					
d.	Infill Development: Facilitate City efforts to attract appropriate private sector development	♦	♦	♦	♦	♦
	Hotels Complex Governor's House	♦	♦	♦	♦	♦
	Red Hawk Landing Louie's					
	Simplex Lot Central Plaza Business Complex					
	Institute Other opportunities as arise					
	Assume: 8 hours per month					
	<b>\$ 5,000 Total Fee (Not Including Travel-related Expenses)</b>					
e.	Warm Springs Master Plan: Prepare a brief master plan for Warm Springs district					
i.	Conduct community workshop on Warm Springs priorities					
	Meet separately with key property owners					
ii.	Evaluate plans and research on Warm Springs district					
iii.	Prepare brief master plan draft for Warm Springs district, including					
	Overview of Warm Springs district challenges and opportunities					
	Vision statement & guiding principles					
	Prototypical block pattern poster for commercial core area					
	Building height and setback recommendations					
	Plan view urban design vision poster including envisioned infill, streetscapes, parking, public places, circulation, & existing buildings.					
	Assumes City has survey data necessary for Sketchup-based graphic design					
iv.	Prepare and present final Master Plan in PowerPoint format					
v.	Prepare & deliver final written Master Plan					
	<b>\$ 19,040 Total Fee (Not Including Travel-related Expenses)</b>					

CONSULTANT will engage Urban Design Studio for design-oriented elements. Graphics will incorporate Sketchup for 3D solids modeling wherever appropriate. Poster elements will be similar in quality and format to those created in Phase 1 of the Downtown Master Plan. The Warm Springs Master Plan report will be produced in Microsoft Word, with a summary/overview in Microsoft PowerPoint.

## Attachment 2, Details of Consultant's Fees and Expenses

Fee for Professional Services				Noted above by project
Expenses	Trips/Days	@		
Air Travel Hudson	5	\$	440	\$2,200
UDS Team	1	\$	450	\$450
Rental Car	20	\$	50	\$1,000
Mileage				\$100
Lodging	20	\$	100	\$2,000
Per diem	25	\$	30	\$750
Printing/Supplies				\$200
Telephone				\$120
Total Expenses				\$6,820