



## City of Ketchum

May 4, 2020

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve Contract #20466, SECOND ADDENDUM TO LEASE AGREEMENT of Ohio Gulch Sludge Drying Fields Lease Agreement**

#### Recommendation and Summary

Staff is recommending the council authorize a **SECOND ADDENDUM TO LEASE AGREEMENT** which extends the lease agreement with Blaine County for the use of the sludge drying fields at the Ohio Gulch Waste Transfer Station and adopt the following motion:

I move to approve Contract #20466, **SECOND ADDENDUM TO LEASE AGREEMENT**, for an extension of the term of the Ohio Gulch sludge drying fields lease agreement with Blaine County, the City of Hailey and the Sun Valley Water and Sewer District so that it is valid and in force until November 31, 2021.

The reasons for the recommendation are as follows:

- The existing lease agreement extension expired April 5, 2020.
- Extending the existing lease agreement will allow Blaine County, as owner of the property, and the various users of the facility time to develop a more thorough and equitable agreement for this necessary step in Ketchum's wastewater treatment process.
- A new agreement for sludge handling at the Ohio Gulch facility is being developed at this time and will include other Wood River valley users as participants of the new agreement.

#### Analysis

The Ohio Gulch Sludge Management Facility is the only place in the Wood River valley able to accept wastewater sludge for proper disposal. The sludge drying facilities at Ohio Gulch are part of the Biosolids Management Plan which is being modified to conform to new standards required by the Environmental Protection Agency and Idaho Department of Environmental Quality. Extension of the current lease agreement until November 31, 2021 provides adequate time for a new process for biosolids management to be developed and implemented.

#### Sustainability

The recommended action has no influence on the goals of the 2020 Ketchum Sustainability Action Plan.

Financial Impact

There are no costs involved with the extension of this lease agreement.

Attachments:

Second Addendum to Lease Agreement

Addendum to Lease Agreement

Ohio Gulch Sludge Management Facility Lease Agreement

## SECOND ADDENDUM TO LEASE AGREEMENT

THIS SECOND ADDENDUM AGREEMENT, effective as of the date hereinbelow stated, is entered into by and between the COUNTY OF BLAINE, a political subdivision of the State of Idaho, hereinafter referred to as "County," and the CITIES OF KETCHUM AND HAILEY, Idaho, municipal corporations, and the SUN VALLEY WATER AND SEWER DISTRICT, a water and sewer district existing under and by virtue of the laws of the State of Idaho, which entities are hereinafter collectively referred to as "Cities."

### RECITALS

1. On April 5, 1999, the parties entered into a lease agreement concerning real property located in the Ohio Gulch area of Blaine County for the use of "drying fields" for sludge generated from wastewater treatment plants operated by the Cities, hereinafter referred to as "lease agreement," which is attached to this ADDENDUM TO LEASE AGREEMENT as Exhibit A and hereby incorporated by reference herein.

2. The lease agreement included a term of twenty years and expired on April 5, 2019.

3. On April 2, 2019, the parties entered into an Addendum to Lease Agreement, hereinafter referred to as "first addendum," which extended the termination of the lease agreement until April 5, 2020. The first addendum is attached to this SECOND ADDENDUM TO LEASE AGREEMENT and hereby incorporated by reference herein.

4. The parties wish to extend the term of the lease agreement so that it is valid and in force until November 31, 2021.

5. In addition to the extended term, the parties agree that all existing terms in the lease agreement are still applicable.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereby agree to this SECOND ADDENDUM TO LEASE AGREEMENT as follows:

1. Term. The lease agreement shall be in full force and effect until its expiration on November 31, 2021. All prior lease agreement terms shall conform to the November 31, 2021, termination date.

2. Existing Lease. All other terms of the lease agreement provided herein remain in full force and effect.

Agreement entered into and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

BLAINE COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

By \_\_\_\_\_  
JACOB GREENBERG, Chairman

\_\_\_\_\_  
Jolynn Drage, Clerk

“CITIES”

By \_\_\_\_\_  
MARTHA BURKE, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
MARY CONE  
Hailey City Clerk

By \_\_\_\_\_  
NEIL BRADSHAW, Mayor  
City of Ketchum

ATTEST:

\_\_\_\_\_  
ROBIN CROTTY  
Ketchum City Clerk

SUN VALLEY WATER AND SEWER DISTRICT

By \_\_\_\_\_  
JAMES D. LOYD, President

ATTEST:

\_\_\_\_\_  
JEANENE PARKER, Treasurer





## ADDENDUM TO LEASE AGREEMENT

THIS ADDENDUM AGREEMENT, effective as of the date hereinbelow stated, is entered into by and between the COUNTY OF BLAINE, a political subdivision of the State of Idaho, hereinafter referred to as "County", and the CITIES OF KETCHUM AND HAILEY, Idaho, municipal corporations, and the SUN VALLEY WATER AND SEWER DISTRICT, a water and sewer district existing under and by virtue of the laws of the State of Idaho, which entities are hereinafter collectively referred to as "Cities".

### RECITALS

1. On April 5, 1999, the parties entered into a lease agreement concerning real property located in the Ohio Gulch area of Blaine County for the use of "drying fields" for sludge generated from wastewater treatment plants operated by the Cities, hereinafter referred to as "lease agreement", which is attached to this ADDENDUM AGREEMENT as Exhibit A and hereby incorporated by reference herein.

2. The lease agreement included a term of twenty years and is set to expire on April 5, 2019.

3. The parties wish to extend the term of the lease agreement so that it is valid and in force until April 5, 2020.

4. Besides the extended term, the parties agree that all existing terms in the lease are still applicable.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereby agree to this ADDENDUM TO LEASE AGREEMENT as follows:

1. Term. The lease agreement shall be in full force and effect until its expiration on April 5, 2020. All prior lease agreement terms shall conform to the April 5, 2020 termination date.
2. Existing Lease. All other terms of the lease agreement provided herein remain in full force and effect.

Agreement entered into and effective as of this \_\_\_\_\_ day of \_\_\_\_\_,  
2019.

BLAINE COUNTY BOARD OF COUNTY  
COMMISSIONERS

ATTEST:

By \_\_\_\_\_  
ANGENIE MCCLEARY, Vice Chair

\_\_\_\_\_  
Jolynn Drage, Clerk

“CITIES”

\_\_\_\_\_  
FRITZ X. HAEMMERLE, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
MARY CONE  
Hailey City Clerk

\_\_\_\_\_  
NEIL BRADSHAW, Mayor  
City of Ketchum

ATTEST:

\_\_\_\_\_  
ROBIN CROTTY  
Ketchum City Clerk

\_\_\_\_\_  
JAMES D. LOYD, President  
Sun Valley Water and Sewer District

ATTEST:

\_\_\_\_\_  
JEANENE PARKER,  
Treasurer



## LEASE

This agreement is made and entered into this 5<sup>th</sup> day of April, 1999, by and between the **COUNTY OF BLAINE**, Idaho, a political subdivision of the State of Idaho, hereinafter referred to as "County" and the **CITIES OF KETCHUM AND HAILEY**, Idaho, Idaho municipal corporations, and the **SUN VALLEY WATER AND SEWER DISTRICT**, a water and sewer district existing under and by virtue of the laws of the State of Idaho, which entities are hereinafter collectively referred to as "Cities."

## RECITALS

1. The County presently owns real property located in the Ohio Gulch area of Blaine County, more particularly described on **Exhibit "A"**, attached hereto.
2. This real property is commonly referred to as the "drying fields," containing six (6) separate drying fields for sludge generated from wastewater treatment plants operated by the Cities.
3. Management of the sludge drying fields has historically been provided by the Southern Idaho Regional Solid Waste District.
4. The parties now wish to agree upon terms and conditions whereby the County will lease to the Cities the area described on **Exhibit "A"**, attached to this agreement for the purpose of operating sludge drying fields thereon, which sludge shall be generated exclusively from publicly owned wastewater treatment systems.

IT IS THEREFORE AGREED in consideration of these recitals and the promises and covenants hereafter contained as follows:

1. **LEASE.** The County hereby leases to the Cities and the Cities agree to lease from the County that real property more particularly described on **Exhibit**

“A”, attached hereto, for the purpose of operating sludge drying fields containing sludge generated from publicly owned wastewater treatment plants within Blaine County.

2. **TERM.** The term of this lease shall be for a period of twenty (20) years, commencing with the 5<sup>th</sup> day of April, 1999, and ending with the 5<sup>th</sup> day of April, 2019.
3. **RENTAL.** No rental fee will be charged or due from the Cities to the County.
4. **EXCLUSIVE USE.** The Cities agree to use the real property for the purposes of drying sludge generated from publicly owned wastewater treatment plants, and any purpose reasonably related to such primary purpose, but no other purpose whatsoever, without the express written consent of the County.
5. **MANNER OF OPERATION.** The Cities agree to operate the sludge drying fields in full conformance with every existing law, including but not limited to, any applicable statute, ordinance, rule, regulation, or order of the United States of America, the State of Idaho or the County of Blaine, or any of its agencies, departments, commissions, or tribunals. Specifically and not by way of limitations, the Cities agree to operate the sludge drying fields in full conformance with the Ohio Gulch Sludge Management Site Procedures Manual, a copy of which is attached hereto as **Exhibit “B”**. The Cities agree to operate the sludge drying fields in full compliance with Title 40 of the Federal Code of Regulations, Part 503, as it now exists or as it may hereafter be amended. The Cities further agree to abide by any supplementary regulations or directives issued after negotiations with the County, for the proper operation of the sludge drying fields which may be issued from time to time by the County.
6. **STAFF.** The Cities agree to hire or contract, at all times during the terms of this agreement, sufficient, competent personnel to properly manage the sludge

drying fields in accordance with the terms and conditions of this agreement.

7. **ADDITIONAL MUNICIPALITIES.** The Cities shall allow, as they shall determine, other municipal corporations ~~of the State of Idaho~~, and extended treatment package systems serving ten (10) or more households, to utilize the sludge drying fields for sludge generated from their own publicly or privately owned wastewater treatment plants. The Cities may charge such reasonable fees as they shall determine for this use. The Cities shall develop operating guidelines for the reception of any additional sludge generated from publicly or privately owned wastewater treatment plants referred to in this paragraph so long as such guidelines are in full compliance with this agreement.
8. **JOINT AND SEVERAL LIABILITY.** The Cities shall be jointly and severally liable for the performance of this agreement.
9. **SEPTAGE.** The Cities agree that they shall not under any circumstances allow sludge or septage that is not "sewer sludge," as that term is defined in Title 40 of the Code of Federal Regulations, Part 503, to be deposited in the sludge drying areas subject to this lease, it being the express understanding of the parties that the real property subject to this lease will be used exclusively for the drying of sewage sludge.
10. **CONDITION OF PREMISES.** The Cities agree to operate the leased property in such a fashion as to insure appropriate, year round vehicular access to the area, consistent with the proper condition of the leased property to receive sewage sludge for drying. The Cities shall have the exclusive responsibility to maintain the leased property in a good condition of repair, including all fences, gates, outbuildings, and other improvements. The Cities may contract with the County or the County's agents for such maintenance and operational items as snow removal, discing, and sludge removal on such terms as may be negotiated by the parties. The final and ultimate responsibility for site maintenance shall be that of the Cities.

11. **CONDITION PRECEDENT.** This agreement must be approved by the State of Idaho Public Health and Welfare, Division of Environmental Quality prior to its becoming effective.
12. **IMPROVEMENT.** The Cities shall not construct new improvement on the real property without the written consent of the County. Any improvements constructed on the real property shall be the property of the County at the termination of the lease.
13. **INSPECTION.** The County shall retain the right to inspect the site at any reasonable time for purposes of determining the Cities' compliance with this agreement. Additionally, the County shall have the right, upon demand, to inspect any records required to be maintained by the Cities in connection with this lease, as described in **Exhibit "B"** attached hereto or in other provisions of law.
14. **DEFAULT.** Should the County determine that the Cities are in violation of any term or condition of this agreement, the County shall cause a writing to be delivered to the Cities at the addresses for notice provided elsewhere in this agreement, which writing shall set forth the exact nature of every claimed event of default. The Cities shall have fifteen (15) days from the receipt of such written notice to fully cure each claimed event of default. The County may not proceed to exercise any remedy to which it may be entitled under this agreement until the appropriate notice has been given to the Cities and the Cities have failed to cure in full each claimed event of default or provide a compliant schedule to cure the defaults acceptable to the County within the fifteen(15) day cure period.
15. **REMEDIES ON DEFAULT.** Should the Cities come into default under this agreement, and defaults are not timely cured after notice having been given, the County may then proceed to exercise any remedy to which it may be

entitled under the laws of the State of Idaho. These remedies may include, but are not limited to, the following:

- A. Termination of the lease agreement and the institution of a suit for any damages caused to the County as a result of the breach of the agreement; and/or
  - B. An action under the unlawful detainer laws of the State of Idaho seeking recovery of the possession of the real property subject to the lease.
  - C. Upon agreement of the parties, submit the dispute to an arbitrator (chosen by the parties) for binding arbitration under the procedures established by *Idaho Code* §7-901, *et seq.* The parties shall pay the arbitrator's fee in equal shares, one share to County and one share to Cities.
16. **INDEMNIFICATION.** The Cities agree to hold harmless and indemnify the County from all liability of whatever kind of nature which may in any way arise from this lease and the Cities' operation of the leased premises. The Cities agree to maintain in force a policy of public liability insurance throughout the term of this agreement naming the County as a coinsured thereon with a minimum single limit coverage of \$2,000,000.00. The Cities shall demonstrate the existence of this insurance policy being in force upon request from the County at all times during this agreement.
17. **PROHIBITION OF ASSIGNMENT OR SUBLEASE.** The Cities may not assign their rights under this agreement or sublease this agreement to any third party without the express written consent of the County first having been obtained. This paragraph shall not be construed to prohibit the Cities from allowing other Idaho municipal corporations to deposit sludge generated from publicly owned wastewater treatment plants as provided elsewhere in this

agreement.

18. **NOTICES.** Notices under this agreement shall be given to the parties at the following addresses:

**COUNTY**

Board of Commissioners  
Blaine County Courthouse  
206 1<sup>st</sup> Avenue S., Suite 300  
Hailey, ID 83333

**CITIES**

City of Ketchum  
P.O. Box 2315  
Ketchum, ID 83340

City of Hailey  
115 S Main St.  
Hailey, ID 83333


Sun Valley Water and Sewer District  
P.O. Box 2410  
Sun Valley, ID 83353

Duplicate notice shall be given to each City when notice is required under this agreement.


19. **INTEGRATION.** The parties hereto acknowledge that the terms, conditions and covenants of this agreement shall supersede any prior negotiations and agreements of the parties, that there are no other agreements not contained in this agreement, and that this agreement shall be the final expression of the agreement of the parties and shall control. No modifications of this agreement shall be valid unless in writing and executed by all the parties hereto.

20. **TIME OF THE ESSENCE.** Time is, and shall be, of the essence of each and every term and condition of this agreement.
21. **ATTORNEYS FEES ON DEFAULT.** If default be made by any party hereto in keeping or performing any of the covenants, conditions or agreements herein agreed to be kept by them, and the other party is required to employ an attorney to enforce any of the covenants, conditions or agreements herein contained, then and in such event, the party in default agrees to pay, in addition to all other sums herein agreed to be paid by them, a reasonable attorney's fee, together with any costs and disbursements that may be incurred in enforcing this agreement.
22. **APPLICABLE LAW.** This agreement shall be construed under and governed by the laws of the State of Idaho.


**"COUNTY"**

  
\_\_\_\_\_  
MARYANN MIX  
Blaine County Board of Commissioners

ATTEST:

  
\_\_\_\_\_  
MARSHA RIEMANN  
Blaine County Clerk

**"CITIES"**

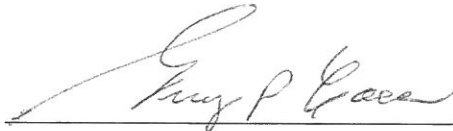


BRAD SIEMER, Mayor  
City of Hailey

ATTEST:

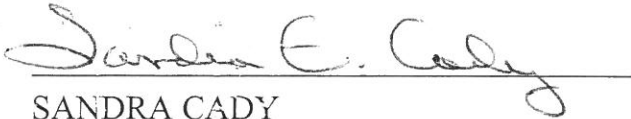


HEATHER DAWSON  
Hailey City Clerk

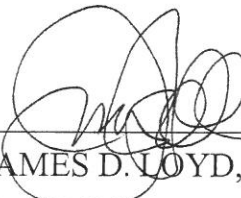


GUY P. COLES, Mayor  
City of Ketchum

ATTEST:



SANDRA CADY  
Ketchum City Clerk



JAMES D. LOYD, PRESIDENT  
Sun Valley Water and Sewer District

ATTEST:



JOANNE K. VASSAR

**LEASE -8 OF 11**

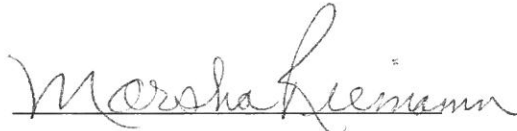
E:\Ketchum\Sewer\Sludge Field Agmt.wpd



State of Idaho )  
 ) ss.  
County of Blaine )

On this 5 day of April, 1999, before me, the undersigned, Notary Public in and for said County and State, personally appeared MARYANN MIX, the Chairman of the Blaine County Board of Commissioners, known to me or proved to me upon satisfactory evidence to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that she executed the same on behalf of said County.

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

  
Notary Public for Idaho  
Residing at Hailey  
Commission expires: 2003

(Seal)

State of Idaho )  
 ) ss.  
County of Blaine )

On this 2nd day of March, 1999, before me, the undersigned, Notary Public in and for said County and State, personally appeared BRAD SIEMER, Mayor of the City of Hailey, known to me or proved to me upon satisfactory evidence to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same on behalf of said City.

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

Heather Dawson

Notary Public for Idaho

Residing at Hailey ID

Commission expires: 08/02/02

(Seal)

State of Idaho )  
 ) ss.  
County of Blaine )

On this 4<sup>th</sup> day of Feb, 1999, before me, the undersigned, Notary Public in and for said County and State, personally appeared GUY P. COLES, Mayor of the City of Ketchum, known to me or proved to me upon satisfactory evidence to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same on behalf of said City.

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

James O. Jaquet

Notary Public for Idaho

Residing at Ketchum

Commission expires: March 24, 2003

(Seal)

State of Idaho )  
 ) ss.  
County of Blaine )

On this 24<sup>TH</sup> day of FEBRUARY, 1999, before me, the undersigned, Notary Public in and for said County and State, personally appeared JAMES D. LOYD, President of Sun Valley Water and Sewer District, known to me or proved to me upon satisfactory evidence to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same on behalf of said City.

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

Joanne K. Vassar

Notary Public for Idaho

Residing at HAILEY

Commission expires: 8/14/2001

(Seal)