



Ketchum Urban Renewal Agency

P.O. Box 2315 | 480 East Ave. N. | Ketchum, ID 83340

November 14, 2022

Chair and Commissioners
Ketchum Urban Renewal Agency
Ketchum, Idaho

RECOMMENDATION TO REVIEW AND APPROVE MODIFICATION TO SCOPE OF WORK, CONTRACT AMOUNT AND EXTENSION TO CONTRACT 50074 WITH AGNEW BECK

Introduction/History

On November 15, 2021, the Board approved a contract and scope of work for Agnew Beck to conduct outreach related to development at the First Street and Washington Ave property and amended the scope of work, expiration and amount of the contract to incorporate additional public outreach and financial analysis of the RFP proposals.

Agnew Beck has been invaluable in assisting with the review of the RFP proposals. The contract amount for the financial review has been exceeded and staff is recommending the Board extend the contract and increase the amount by \$14,000 to provide financial assistance through the developer selection process and approval of a developer agreement.

Recommendation and Motion

Staff recommends the Board review and approve the revised contract cost and scope of services for Agnew Beck.

Attachment A: Amended Contract and Scope of Work

AMENDED CONTRACT FOR SERVICES 50074

THIS CONTRACT FOR SERVICES ("Agreement") by and between the KETCHUM URBAN RENEWAL AGENCY, an independent public body corporate and politic, authorized and existing under the authority of the Idaho Urban Renewal Law of 1965, Chapter 20, Title 50, Idaho Code, as amended (the "Law"), and the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, as amended (the "Act") (hereinafter referred to as "KURA") and the Agnew:Beck (herein referred to as "Contractor"). Collectively, KURA and Contractor may be referred to as the "Parties."

RECITALS

A. The City Council of the City of Ketchum (the "City Council") by adoption of Ordinance No. 992 on November 15, 2006, duly adopted the Ketchum Urban Renewal Plan (the "Plan") to be administered by KURA. Subsequently, the Plan was amended upon the approval of Ordinance No. 1077 adopted by the City Council on November 15, 2010 and deemed effective on November 24, 2010 (the "Amended Plan").

B. Through implementing the Amended Plan, KURA seeks to further the following stated goal: The strengthening of the tax base by encouraging private development, thus increasing the assessed valuation of properties within the Revenue Allocation Area and benefitting the various taxing districts in which the Revenue Allocation Area is located. Additionally, the Amended Plan seeks to further its goal of strengthening the economic base of the Revenue Allocation Area by installing needed site improvements and public facilities to stimulate new commercial expansion, employment and economic growth. These goals are consistent with the findings and purpose of the Act set forth in Idaho Code § 50-2902.

C. In furtherance of these goals, KURA seeks to conduct outreach and gather input on potential development located at the KURA owned site at 1st Street and Washington Avenue.

D. Contractor has the expertise to assist the KURA with community outreach and evaluation of development options for the site.

E. The parties specifically acknowledge and agree that all funds paid to Contractor under this Agreement shall be used solely to provide services for KURA for the scope and services identified in Attachment A. The proposed services lead to direct quantifiable and measurable results of investing public funds for a public purpose.

F. Subject to the terms and conditions of this Agreement, the parties wish to enter into this Agreement to provide the services described herein.

AGREEMENT

NOW THEREFORE, KURA and Contractor, for and in consideration of the preceding recitals, mutual promises and covenants hereinafter set forth, do hereby agree as follows:

1. Consideration. In consideration for providing the services provided herein, KURA agrees to pay Contractor an amount not to exceed forty four thousand and six hundred dollars (\$44,600) for the scope of work set forth in Attachment A and B and fourteen thousand dollars (\$14,000) for the scope of work in Attachment C for the term set forth in Section 2. Payments shall be made as set forth in Section 5.
2. Term. Unless terminated pursuant to Section 7(b) of this Agreement, and notwithstanding the date of execution hereof, this Agreement shall be in effect until September 30, 2023.
3. Scope of Services. The Parties hereby agree that Contractor shall provide certain services to KURA as set forth in the Scope of Services attached hereto as Exhibit A, B and C.
4. Payments.
 - a. Contractor shall maintain time and expense records and make them available to the KURA monthly and provide monthly invoices in a format acceptable to the KURA for work performed to the date of the invoice. Each invoice shall specify charges as they relate to specific tasks. Each invoice shall also specify current billing and previous payments, with a total of costs incurred and payments made to date.
 - b. All invoices shall be paid by the KURA within forty-five (45) days of receipt of proper invoice. Uncontested invoices paid after forty-five days may be subject to the statutory rate of interest pursuant to Idaho Code section 67-2302.
 - c. If the services subject to a specific invoice do not meet the requirements of this Agreement as the KURA may determine, the KURA shall notify Contractor in writing and provide specific deficiencies in the work that do not meet the requirements. Contractor shall have seven (7) working days to correct or modify the work to comply with the requirements of the Agreement as set forth in the KURA's written notice. If the KURA again determines the work fails to meet the requirements, the KURA may withhold payment until deficiencies have been corrected to the KUR's satisfaction or may terminate this Agreement for cause as set forth in Section 6 of this Agreement.

5. Records Access and Audits. Contractor shall maintain complete and accurate records with respect to costs incurred and time expended under this Agreement. All such records shall be maintained according to generally accepted accounting principles, shall be clearly identified, and shall be readily accessible. Such records shall be available for review by the KURA representatives for three (3) years after final payment. Copies shall be made available to the KURA upon request.

6. Miscellaneous Provisions.

a. Notices. All notices to be served pursuant to this Agreement or which are served with regard to this Agreement shall be sent by certified mail, return receipt, to the parties at the following addresses:

Ketchum Urban Renewal Agency
PO Box 2315
Ketchum, Idaho 83340

Agnew Beck
802 West Bannock Street Suite 305A
Boise, ID 83702

All notices of changes of addresses shall be sent in the same manner.

b. Termination.

- i. The Parties hereto covenant and agree that in the event KURA, in its sole and absolute discretion, lacks sufficient funds to continue paying for Contractor's services under this Agreement, KURA may terminate this Agreement without penalty upon thirty (30) days written notice. Upon receipt of such notice neither party shall have any further obligation to the other. In the event of early termination of this Agreement, Contractor shall submit to KURA a report of expenditures authorized by this Agreement as of the effective date of termination. Any KURA funds not encumbered for authorized expenditures at the date of termination shall be refunded to KURA within twenty (20) days.
- ii. If Contractor shall fail to fulfill its obligations in compliance with the Scope of Services as set forth in Section 3, or if Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, KURA shall thereupon have the right to terminate this Agreement effective immediately. If this Agreement is terminated for cause, Contractor shall be paid a pro-rata amount of the quarterly payment earned in accordance with this

Agreement through the cancellation date.

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

- c. Independent Contractor. KURA and Contractor hereby agree that the Contractor shall perform the services set forth in Section 3 of this Agreement exclusively as an independent contractor and not as employee or agent of KURA. 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. Contractor, its agents and employees shall not receive nor be entitled to any employment-related benefits from KURA including without limitation, workers compensation insurance, unemployment insurance, health insurance, retirement benefits or any benefit that KURA offers to its employees. Contractor shall be solely responsible for the payment of all payroll and withholding taxes for amounts paid to Contractor under this Agreement and for Contractor's payments for work performed in performance of this Agreement by Contractor, its agents and employees; and Contractor hereby releases, holds harmless and agrees to indemnify KURA from and against any and all claims or penalties, including without limitation the 100% penalty, which in any manner relate to or arise from any failure to pay such payroll or withholding taxes.

KURA shall determine the work to be done by Contractor, but Contractor shall determine the legal means by which it accomplishes the work specified by KURA. KURA agrees that it will have no right to control or direct the method, manner, or means by which Contractor accomplishes the results of the services performed hereunder. Contractor has no obligation to work any particular hours or days or any particular number of hours or days. Contractor agrees, however, that his or her other contracts and/or services shall not interfere with the performance of his or her services under this Agreement. KURA agrees to coordinate project schedules and respective commencements and deadlines with Contractor.

Contractor shall supply, at Contractor's sole expense, all equipment, tools, materials, and/or supplies to accomplish the services to be provided herein.

- d. Compliance with Laws/Public Records. Contractor acknowledges that KURA is an independent public body corporate and politic subject to the Public Records Act, Chapter 1, Title 74, Idaho Code, as amended. Contractor will communicate with and cooperate with KURA upon request by KURA so as to identify, address, potentially disclose, and evaluate exemptions as necessary for records that may be subject to the Public Records Act. Contractor further agrees to comply with all federal, state, city, and local laws, rules and regulations.
- e. Non-assignment. This Agreement may not be assigned by or transferred by Contractor, in whole or in part, without the prior written consent of KURA.
- f. Hold Harmless Agreement. Contractor shall indemnify, defend and save and hold harmless KURA, its officers, agents, and employees, from and against any and all claims, loss, damages, injury or liability, including but not limited to, the misapplication of KURA funds, state or federal anti-trust violations, personal injury or death, damages to property, liability arising out of the use of materials, concepts, or processes protected by intellectual property, rights and liens of workmen and materialmen, howsoever caused, resulting directly or indirectly from the performance of the Agreement by Contractor.
- g. Entire Contract. This Agreement contains the entire contract between the Parties and shall not be modified or changed in any manner, except by prior written contract executed by both Parties.
- h. Succession. This Agreement shall be binding upon all successors in interest of either party hereto.
- i. No Third Party Beneficiaries. This Agreement shall not create any rights or interest in any third parties.
- j. Law of Idaho. This Agreement shall be construed in accordance with the laws of the State of Idaho.
- k. Severability. If any clause, sentence, or paragraph of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, such decision shall not affect the remaining portions, and the parties do

now declare their intention that each such clause, sentence, or paragraph of this Agreement is a separate part hereof.

- l. Preparation of Contract. 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.
- m. 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.
- n. Attorney's Fees. In the event either party hereto is required to retain counsel to enforce a provision of this Agreement, to recover damages resulting from a breach hereof or if either party defaults in the performance of this Agreement, the prevailing party shall be entitled to recover from the other party all reasonable attorney's fees incurred herein or on appeal.
- o. Conflict of Interest. No officer or director of Contractor, who has decision-making authority or immediate family member of such individual, shall have a direct pecuniary interest in any contract or subcontract for work to be performed in connection with this Agreement. Contractor shall incorporate or cause to be incorporated in all such contracts, a provision prohibiting such interest pursuant to this provision.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the day and year first written below.

Ketchum Urban Renewal Agency

Agnew : Beck

Chair

Ellen Campfield Nelson

Date _____

Date _____

ATTEST:

Trent Donat, Agency Secretary

ATTACHMENT A

Ketchum Urban Renewal Agency Scope Amendment for Site Specific Outreach and Engagement <i>Submitted by Agnew::Beck June 8, 2022</i>		Principal		Data Analyst and Project Support		Total
Timeframe: October 2021 to March 2022		hours	rate	hours	rate	
			\$170		\$100	
Task 1: Project Initiation (Oct)		14	\$2,380	16	\$1,600	\$3,980
1A. Project Team Kick-Off		4	\$680	6	\$600	
1.B Virtual Work Session with KURA Commissioners		8	\$1,360	4	\$400	
1C. Conduct Stakeholder Analysis and Develop Engagement Plan		2	\$340	6	\$600	
Deliverables from Task 1: Stakeholder engagement plan; summary of KURA staff and Commissioners project goals and objectives; project management schedule and work plan						
Task 2: Project Research and Preliminary Findings (Oct-Dec)		32	\$5,440	50	\$5,000	\$10,440
2A. Key Informant Interviews		8	\$1,360	12	\$1,200	
2B. Review and Summarize Existing Site Conditions Information		6	\$1,020	12	\$1,200	
2C. Coordinate Community Survey Questions and Analysis		4	\$680	12	\$1,200	
2D. Key Findings		8	\$1,360	8	\$800	
2E. Share Preliminary Findings with KURA Commissioners and Staff/Project Team		6	\$1,020	6	\$600	
Meet with KURA Staff/Project Team. Share findings with KURA Commissioners (via staff report or virtual work session) and coordinate publication in public forums such as KURA website and/or newsletter.						
Deliverables from Task 2: Site considerations summary map; community survey and key informant findings; preliminary findings memo/presentation						
Task 3: Conduct Additional Community Outreach (Dec-Feb)		30	\$5,100	36	\$3,600	\$8,700
3A. Facilitate Community Workshops		30	\$5,100	18	\$3,600	
Design, prepare and facilitate up to two (2) community workshops (virtual and/or in-person, depending on health and safety conditions and preferences) to discuss potential uses and options for the site, and share contextual information with the general public and key stakeholders. Develop visuals and exercises that get at key questions and decision areas. Document and summarize workshop results.						
Deliverables from Task 3: Workshop materials and documentation						
Task 4: Summarize and Synthesize Community Preferences (Feb-Mar)		14	\$2,380	18	\$1,800	\$4,180
4A. Summarize and Share Findings		8	\$1,360	12	\$1,200	
Create project boards identifying community goals, outreach process and preferred use(s)/scenario(s) for the site (based on public input and project parameters).						
4B. Share Final Findings with KURA Commissioners and Staff/Project Team		6	\$1,020	6	\$600	
Final presentation to KURA Commissioners and publish in public forums such as KURA website and/or newsletter. Project close-down meeting with KURA Staff/Project Team and transfer all project materials digitally, in an organized manner.						
Deliverables from Task 4: Summary boards/final findings						
NEW: Phase I Additional Funding - Support for additional meetings, product review and work sessions with the KURA Board to develop and review RFP section elements						\$3,100
Expenses *						\$1,750
TOTAL		90	\$ 15,300	120	\$ 12,000	\$ 32,150

ATTACHMENT B

KURA 1st & Washington RFP Support	Principal Shanna Zuspan		Senior Associate Michelle Humphrey		Total
May 2022 - October 2022	hours	rate \$175	hours	rate \$125	
Task					
1. Pro Forma Template Agnew::Beck will review and provide feedback on the existing 1st and Washington RFP. We will prepare a template for project applicants to use as part of the RFP submittal process. Estimated hours includes development of one template model and one round of edits.	16	\$2,800	10	\$1,250	\$4,050
2. RFP Q&A Agnew::Beck will be available to help answer questions related to the pro forma template during the RFP process.	8	\$1,400	4	\$500	\$1,900
3. RFP Evaluation Agnew::Beck will review RFP submittals, prepare a matrix summarizing submittals and make recommendations on submittals from a financial feasibility and public/private partnership perspective.	30	\$5,250	10	\$1,250	\$6,500
Travel *					
Expenses **					
TOTAL ***	54	\$9,450	24	\$3,000	\$12,450

EXCLUSIONS + TERMS

** Other Expenses - Include costs for phone and related equipment and services required in the normal performance of the contract. Costs for services required to produce informational, advertising or meeting materials are included in this budget; however, costs for printing, mailing or otherwise distributing these materials, or for paid advertising or other public notices are not included in this budget and would be paid for directly by client, as needed. Digital versions of all final materials will be submitted in an organized manner to the client for future editing, use and reproduction. Rights to final versions of all materials are transferred to the client upon conclusion of the project. A::B reserves the right to use any and all project materials for educational and marketing purposes. A::B reserves the rights to any draft or conceptual materials developed in the course of the project, or other materials specified in the terms of the contract.

*** A::B reserves the right to move budget between tasks, staff and subcontractors so long as costs do not exceed the total budget

This estimate is good for 90 days from the date of the estimate.

ATTACHMENT C

KURA 1st & Washington Developer Selection Support		Principal Shanna Zuspan	Total
Nov 2022 - Feb 2023		hours rate \$175	
Task 1. Developer comparison analysis Agnew::Beck will continue to review the developer applications for the 1st and Washington RFP and prepare a summary memorandum of the three developer proposals with a focus on the financial model and deal structure of each proposal. (Nov 2022)		20 \$3,500	\$3,500
2. Ongoing Support Agnew::Beck will provide ongoing support to the KURA as part of the developer selection process, with a focus on assessing the financials and the deal structure. Assumes up to 20 hours per month for December, January, February. Any surplus hours can roll into the developer negotiation phase, depending on timing and support needed.		60 \$10,500	\$10,500
Travel *			
Expenses **			
TOTAL***		80 \$14,000	\$14,000

EXCLUSIONS + TERMS

** Other Expenses - Include costs for phone and related equipment and services required in the normal performance of the contract. Costs for services required to produce informational, advertising or meeting materials are included in this budget; however, costs for printing, mailing or otherwise distributing these materials, or for paid advertising or other public notices are not included in this budget and would be paid for directly by client, as needed. Digital versions of all final materials will be submitted in an organized manner to the client for future editing, use and reproduction. Rights to final versions of all materials are transferred to the client upon conclusion of the project. A::B reserves the right to use any and all project materials for educational and marketing purposes. A::B reserves the rights to any draft or conceptual materials developed in the course of the project, or other materials specified in the terms of the contract.

*** A::B reserves the right to move budget between tasks, staff and subcontractors so long as costs do not exceed the total budget.

This estimate is good for 90 days from the date of the estimate.