



## City of Ketchum

October 3, 2022

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Enter into Contract 23010 with Friends of the Sawtooth Avalanche Center**

#### Recommendation and Summary

Staff is recommending the council approve the annual contract with Friends of the Sawtooth Avalanche Center (FSAC) and adopt the following motion:

**"I move to approve Contract 23010 with Friends of the Sawtooth Avalanche Center."**

The reasons for the recommendation are as follows:

- The primary reason for the City to enter this contract is to support the FSAC's and Sawtooth Avalanche Center's (SAC) shared mission to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest.
- The funding was approved in the FY23 adopted budget.

#### Introduction and History

Fiscal year 2023 will be the 2<sup>nd</sup> year that Ketchum has contracted with FSAC. FSAC was previously supported by the Fire Department.

#### Analysis

The City's contribution will fund the Daily Avalanche Forecasts – a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with the professional and business community such as Blaine County Search and Rescue, law enforcement and fire departments.

#### Sustainability

None.

#### Financial Impact

The cost for services is \$4,000 for the year and funding will be allocated from the Local Option Tax Account within the approved FY23 budget.

#### Attachments

Proposed Contract #23010

## CONTRACT FOR SERVICES 23010

THIS AGREEMENT, made and entered into this 3<sup>rd</sup> day of October 2022, by and between the CITY OF KETCHUM, IDAHO, (hereinafter referred to as "the City") and the FRIENDS OF THE SAWTOOTH NATIONAL FOREST AVALANCHE CENTER, an Idaho nonprofit corporation with an IRS 501 (c)(3) designation, (hereinafter referred to as "FSAC").

### FINDINGS

1. Ketchum is a municipal corporation duly organized and existing under the laws of the State of Idaho.
2. FSAC is an Idaho non-profit organization with an IRS 501(c)(3) designation engaged in the business of supporting the Sawtooth Avalanche Center's mission of promoting life-saving avalanche safety information, education and outreach.
3. Ketchum is a destination resort city as defined by Idaho Code § 50-1044 as it derives a major portion of its economic wellbeing from businesses catering to the recreational needs and meeting the needs of people traveling to the Sun Valley area. As a resort city, Ketchum is eligible to and does collect a local option non-property tax.
4. Pursuant to Idaho Code § 50-301 and § 50-302, Ketchum is empowered to enter into contracts and take such steps as are reasonably necessary to maintain the peace, good government and welfare of the City and its trade, commerce and industry. Accordingly, Ketchum has the power as conferred by the State of Idaho, to provide directly for certain promotional activities to enhance the trade, commerce, industry, and economic well-being of the City.
5. The primary reason for the City to enter this contract is to support the FSAC's and Sawtooth Avalanche Center's (SAC) shared mission to save lives by reducing avalanche risk to people recreating, working and traveling on and around the Sawtooth National Forest. The City's contribution will fund the Daily Avalanche Forecasts – a critical tool for sharing avalanche and weather information with the local and tourist winter recreation community and with the professional and business community such as Blaine County Search and Rescue, law enforcement and fire departments.
6. Ketchum has committed \$4,000 towards this contract for services in the FY22 budget.
7. FSAC desires to enter into an agreement with Ketchum to provide services identified in Attachment A.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, it is agreed by and between the City and the FSAC as follows:

1. **SERVICES RECEIVED.** FSAC agrees to provide those services identified in Attachment A as an independent contractor. FSAC agrees that it shall provide, at its sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, liability insurance, fidelity bonds, and all necessary equipment and facilities required to provide the services as set forth in this Agreement.
2. **TERM.** The term of this Agreement shall commence October 1, 2022 and shall terminate on the 30<sup>th</sup> day of September 2023.

3. **CONSIDERATION.** In consideration for providing the services described in Attachment A, the City agrees to pay to FSAC the total sum of FOUR THOUSAND DOLLARS payable in agreed one lump sum. FSAC will provide the City an invoice; the City shall pay FSAC the amount set forth in such invoice no later than thirty (30) days after the date of such invoice.
4. **REPORTING.** FSAC agrees to report to the Ketchum City Council via an annual report.
5. **TERMINATION.** The City may terminate this Contract with 120 days written notice to FSAC with or without cause. The City reserves the right to request an independent audit under the provisions herein upon termination, and such audit obligation and cost on the part of FSAC shall survive any termination of this Contract.
6. **EQUAL EMPLOYMENT OPPORTUNITY.** FSAC covenants that it shall not discriminate against any employee, volunteer, or applicant for employment because of race, religion, color, sex, or national origin.
7. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge and agree that FSAC shall provide its services for the fee specified herein in the status of independent contractor, and not as an employee of the City. FSAC shall create, direct, and control its own means and methods of performing this Agreement. FSAC and its agents, members, employees, and volunteers, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the City. The sole interest and responsibility of the City under this Agreement is to assure itself that the services covered by this Agreement shall be performed and rendered by FSAC in a competent, efficient and satisfactory manner.
8. **HOLD HARMLESS AGREEMENT.** Any contractual obligation entered into or assumed by FSAC, or any liability incurred by reason of personal injury and/or property damage in connection with or arising out of FSAC's obligations pursuant to this Agreement shall be the sole responsibility of FSAC, and FSAC covenants and agrees to indemnify and hold the City harmless from any and all claims or causes of action arising out of FSAC's activities and obligations as set forth hereinabove, including, but not limited to, personal injury, property damage, and employee complaints.
9. **NON-ASSIGNMENT.** This Agreement may not be assigned by or transferred by FSAC, in whole or in part, without the prior written consent of the City.
10. **DISPUTES:** In the event that a dispute arises between the City and FSAC regarding application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within ten (10) days after such dispute arises. If the parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the parties agree to first endeavor to seek to settle the dispute in an amicable manner by non-binding mediation before resorting to litigation. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.
11. **MISCELLANEOUS PROVISIONS.**
  - a. Paragraph Headings. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of the provisions of the Agreement.

- b. Provisions Severable. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
- c. Rights and Remedies are Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- d. Successor and Assigns. This Agreement and the terms and provision hereof shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.
- e. Entire Agreement. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matters.
- f. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Idaho. Venue shall be in Blaine County, Idaho.
- g. Preparation of Agreement. 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.
- h. 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.
- i. Amendment. No amendment of this Agreement shall be effective unless the amendment is in writing, signed by each of the parties.
- j. Notices. Notices hereunder shall be by personal delivery or US Mail Certified/Return Receipt and shall be deemed effective upon such personal delivery or two (2) business days after mailing, whichever is later. Notices shall be provided as follows:

a. City: City Administrator  
City of Ketchum  
P.O. Box 2315  
Ketchum, ID 83340

b. Consultant: Friends of the Sawtooth Avalanche Center  
PO Box 2669  
Ketchum, ID 83340

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

CITY OF KETCHUM, IDAHO

FRIENDS OF THE SAWOOTH AVALANCHE CENTER

By: \_\_\_\_\_  
Neil Bradshaw  
Mayor

By:  \_\_\_\_\_  
Dawn Bird  
Executive Director

ATTEST:

\_\_\_\_\_  
Lisa Enourato  
Interim City Clerk