



City of Ketchum

September 1, 2022

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Approve Independent Contractor Agreement #22127 with NeuroMediation Group LLC

Recommendation and Summary

Goal 3: Expand + Improve Services to Create Housing Stability

Action 5: Convene local housing and service provider group to explore a redesign of service delivery to be a more streamlined one-stop shop; Understand existing service capacity and gaps, including legal services, emergency and short-term rental assistance.

Staff is recommending the City Council approve Independent Contractor Agreement #22127 with NeuroMediation Group LLC for Community Housing Strategic Services. This contract will pilot an eviction diversion program to be administered by an experienced third party, with City staff providing oversight.

"I move to approve the contract with NeuroMediation Group LLC to administer the mediation program"

The reasons for the recommendation are as follows:

- The NeuroMediation Group LLC team possesses the necessary knowledge, skills, and experience to execute a much-needed housing program quickly and efficiently.
- The program increases the likelihood that households can stay in their current housing and, if displacement is unavoidable, minimizes its impact. 97% of mediated cases reach a resolution, whereas when eviction is filed landlords and tenants spend more time, money, and stress without a resolution 37% of the time.
- The city currently has adequate funds for this contract in the Strategic Initiatives Account.

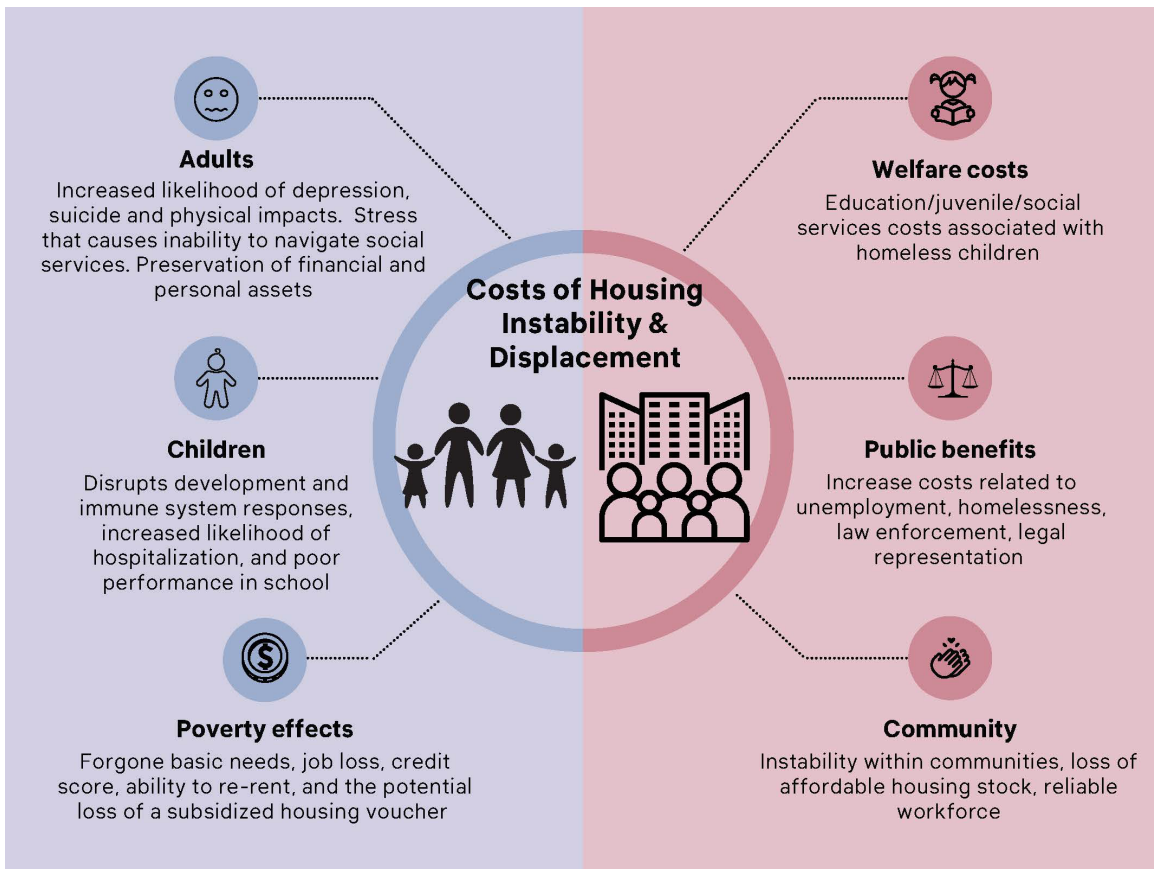
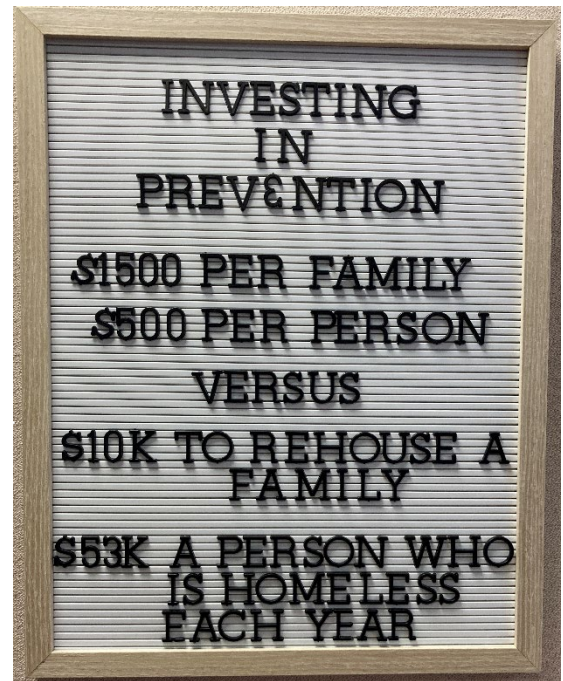
Introduction and History

Potential impact: The administrative costs of formal mediation could reach over 90 households in Blaine County in the first year, and training of case workers in the Valley who already find themselves mediating would amplify those impacts. Households most at risk of formal and informal eviction earn under the median income, are rent-burdened, and often are comprised of minorities, women, elderly, and disabled. Eviction Lab found that the greatest predictor of eviction is children in the household. The City of Ketchum currently has about 430

households earning under 80% area median income (under \$23 per hour) and 200 rent-burdened households. ¹ (Blaine County has about 3,000 households who earn under 80% AMI and 1,400 rent-burdened households).²

Investing in eviction diversion programs that include mediation and financial assistance, saves public funding in the long run. This visual to the right is from Jesse Tree in Boise – which provides financial assistance, case management, and eviction court assistance – and describes such impact.

Ketchum experienced a substantial increase in housing demand with the onset of COVID. Between 2019 and 2020 alone, Ketchum’s population increased by 25% compared to the historic annual increase of 1%. This demand pushed up rents and sales prices on homes, displacing workers South or out of the region all together. Restaurants, businesses, and community members are struggling to continue functioning here and will continue to do so without adequate, stable housing. Such displacements – compounded with the stress of the pandemic – has negative impacts on residents’ mental, physical, and economic health.



¹ Ketchum Housing Matters community survey, Nov. 15, 2021-Jan. 3, 2022

² Ketchum Housing Matters community survey, Nov. 15, 2021-Jan. 3, 2022

Why mediation? An eviction diversion program that combines direct landlord-tenant mediation and thematical training for case workers throughout Blaine County, would minimize displacement by facilitating arrangements such as payment plans and helping tenants access other supports. Landlords are able to minimize turnover costs and avoid vacancies. In the event that displacement is unavoidable, mediation can lead to an agreement that results in non-disruptive displacement and ensures that the landlord is able to avoid costly eviction procedures.

Mediation helps avoid the need for tenant legal representation in 97% to 98% of cases. This is based on discussions with Jesse Tree and Carol Barks of NeuroMediation Group LLC – the contractor who created the eviction court mediation program for the Idaho Third District and facilitates the eviction process for the Nevada Supreme Court.

Mediation programs – both those that preempt evictions from going to court and those that take place at court – are a tried-and-true method for minimizing displacement. The City of Philadelphia has worked on eviction diversion and as of January 1, 2022 requires landlords and tenants to participate, for free, by City Ordinance. Philadelphia also requires a right to legal counsel. Boulder, Colorado created an [Eviction Prevention and Rental Assistance Program](#) which provides financial assistance, pro-bono legal assistance, and mediation services and is funded through a landlord tax. Other jurisdictions provide such programs nationwide. More locally, Canyon County and Ada County Idaho have eviction mediation programs and the Idaho Supreme Court aims to roll out such programs state-wide. There is no clear timeline for the program in the Fifth District Court, which Blaine County is part of.

How this aligns with the Housing Action Plan: Goal 3 of the HAP is to Expand + Improve Services to Create Housing Stability. During the development of the HAP, this service was an identified gap by survey respondents, interviewees, and Task Force members including the Hunger Coalition, the Advocates, Men’s Second Chance Living, Blaine County Charitable Fund. Other service providers have also vocally supported such a service being brought into the Valley, recognizing that there is a high need, it is too far out of their wheelhouse to facilitate or provide, and that having a neutral third-party is critical. Contracting with NeuroMediation Group would achieve such aims and augment and bolster the work of our partners. When City staff followed up with implementation partners about potential need and workload for a tenant legal representation and mediation, we received the following responses:

“I love that you are considering a position like this! I bet there would easily be enough work for a full-time tenant advocate if they worked valley-wide...Our other feedback about this position is how critical it is that this person is bi-lingual, knows the local real estate market and is not strongly affiliated with any single group/community here...If you can find a person who is capable of operating from a neutral perspective, that's the person you want!!” – The Hunger Coalition

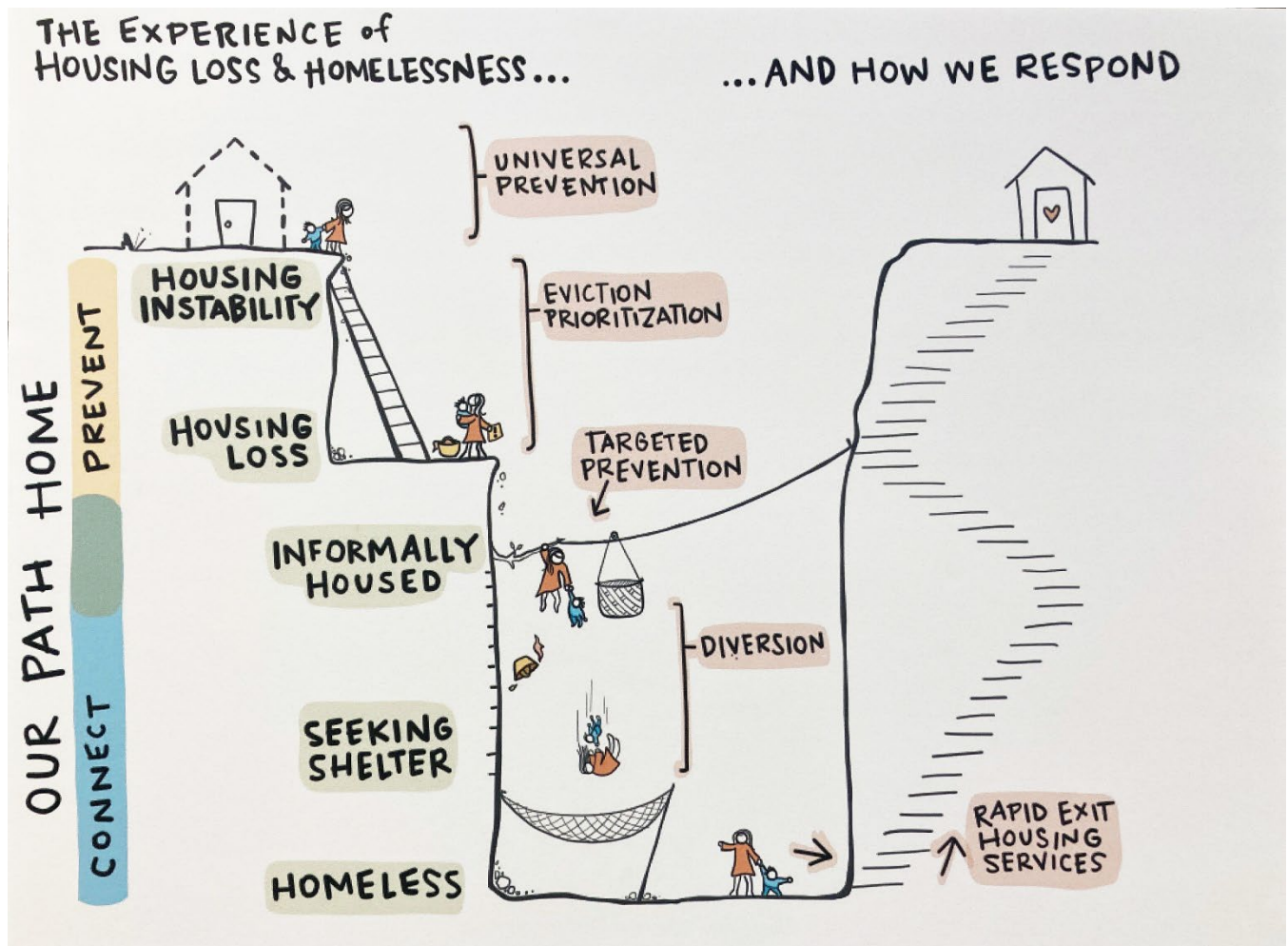
“I love this idea and I do think there is a significant need...we spend quite a bit of time working with landlords on behalf of our clients and would welcome more expertise and resources.” – the Advocates

“I definitely see this as a huge need. I've advocated for it in the past with BCHA, had many times we had nowhere to point people when they were experiencing not positive relations with tenant or landlord, or needed the representation in eviction court. Plus, not to mention the amount of people that reside in our county that live in the shadows and are taken advantage of because of it.” – Blaine County Charitable Fund

“I think this would be a fantastic service.” – Men’s Second Chance Living

One implementation partner who is a developer and owner of housing does not support facilitating such a service, as they understand it as forcing a landlord to continue leasing to problem tenants.

This is an action with immediate results and – if the Supreme Court program is rolled out and preempts eviction filings – could be scaled back or stopped in later years. This is not meant to be a silver bullet (as there are none) but is one tactic to be used in tandem with other stabilizing interventions like the housing navigation system / one-stop shop and financial assistance provided through the Blaine County Charitable Fund. The goal is to stabilize households as much as possible in their current homes, particularly when there are extremely limited alternative housing options. Secondly, when an agreement can't be achieved and eviction is inevitable, this mediation program helps minimize the disruption to the displaced household. The visual below is also from Jesse Tree and describes the prevention work in the top left that this action addresses.



One of the many benefits of working with NeuroMediation Group is that there is no commitment to continuing the program in the future nor commitment to onboarding staff to administer the program. Their expertise, capacity for customer service and outreach, and staff would temporarily extend the capacity of the City of Ketchum and Blaine County. This program is fully supported by the Blaine County Commissioners, so half of the \$50,000 will be reimbursed by Blaine County.

Sustainability impact

Ability to house employees and community participants locally decreases commuter vehicular trips.

Financial Impact

Funds for the contract will come from the Strategic Initiatives Fund account for a not to exceed amount of \$50,000.

Attachments:

NeuroMediation Group Proposal and Work Scope
Contract



THE PROBLEM:

Current Context: Evictions are on the rise throughout the country and Idaho is no exception. Per the Idaho Policy Institute, in 2021 about 1% of Idaho's renting households had an eviction filing and roughly .6% were formally evicted. The statewide amount of eviction filings increased by 11% from 2020 to 2021 although the households with formal evictions decreased 1.7% due to emergency rental assistance funds and federal eviction moratorium. As the moratorium has expired, the eviction cases have surpassed their 2019 figures. As our population increase, so too, will evictions.

Per a Blaine County court clerk working on eviction cases, the court currently receives between 2 and 3 evictions per month. If these numbers are averaged, it estimated there will be roughly 30 eviction cases filed in 2022 – a 50% increase over the pre-COVID eviction case filings of 20 cases in 2019.

This figure does not reflect the vast number of informal evictions, when households who received warnings or threats from their landlord – including rent increases and maintenance issues – did not see an alternative solution so moved out prior to an eviction filing. Nor does this figure include the landlord not renewing a lease nor illegal evictions, which is “a forced residential move that violates federal, state or local law and can result in penalties or other consequences for landlords, if enforced.”ⁱ

Since non-lease renewal, informal and illegal evictions occur in the shadows, it is extremely challenging to measure. In Washington State, informal eviction tactics increased during COVID from 1 in 8 low-income tenants having experienced informal eviction tactics to 1 in 5.ⁱⁱ The few studies that do exist estimate that informal evictions are twice as common to 5.5 times as common as formal, court ordered evictions.ⁱⁱⁱ For Blaine County, this would signify 90 to 195 formal and informal evictions in 2022.

Formal Eviction Causes: The reasons people come to face an eviction far surpass the simplicity of financial negligence. For instance, below are some of the regularly occurring situations regularly cited in eviction court:

- A family member contributing to the rental payment passed away
- A couple divorces and the remaining person cannot afford the rent payment alone
- A survivor of domestic violence flees a toxic relationship
- An extended illness or disease make it impossible for a person to work
- A person's place of employment closes causing unexpected unemployment
- A parent needs to stay home with a child due to exorbitant childcare costs or special needs of the child

The reasons are endless and often complicated. While evictions will always be a part of societal norms, rising rent prices coupled with incomes that are not rising at the same rate have created an increasingly difficult environment for tenants. Added to the myriad of other reasons people may be faced with an eviction, a significant societal issue is occurring: A significant number of tenants facing eviction are part of at-risk groups such as minorities, women, elderly, and disabled, which has Fair Housing implications.

The Court Reality: Eviction takes time and it also takes the ability to find creative solutions away from the parties. Filing can be confusing and court is often reported as being scary – especially when parties are already worried about their housing or income. Many landlords can afford legal counsel for the process while most tenants are unrepresented – if they cannot afford rent, they clearly also cannot afford legal representation. Further, legal aid services are stretched beyond capacity so free or low-cost options can be difficult to access.

In looking at Blaine County statistics, roughly 63% of evictions are granted and 37% percent are not, meaning a landlord wishing to have a tenant evicted has spent time and money for an unsuccessful, stressful process. This can cause further tension between the landlord and tenant(s).

THE SOLUTION:

Pre-litigation mediation: By mediating these cases *before* an eviction filing is made, resolution can be found for informal evictions and stave off formal eviction. The cost of court is saved and a legal record is not created. The risk associated with the ambiguity of court is removed and parties are more likely to comply with terms they help create. In addition, the power imbalance that occurs between a tenant and landlord is effectively managed so both parties can have a voice and be heard.

The purpose of mediation is not to secure a specific outcome. In addition, the mediator is a neutral third party – not an advocate for the tenant. Sometimes, landlords are resistant to mediation as they feel they will be forced to allow an unpaying tenant to remain in their property. This is not the case. The concessions made in mediation are totally theirs to make and there is no pressure to perform.

Comparable Programs in Idaho: Ada County has had an eviction court mediation program for years and Canyon County began a similar program roughly two years ago. In these counties, eviction cases are sent to mediation prior to a court hearing. Through this process landlords and tenants mediate can communicate and create options for resolution that may not be available to a judge.

Currently Blaine County, which is part of the Idaho Fifth District Court, does not have an eviction court mediation program. That said, there are currently talks about implementing a program but a specific timeline for such a program has not been identified.

Mediation Agreements: The agreements vary. For instance, sometimes an agreement may allow the tenant a few more days to vacate the premises. Sometimes an agreement involves a payment plan which enables the tenant to remain in the premises while making the landlord financially whole. The agreements can be anything and the results of these programs have been remarkable with 97% of mediated cases reaching a resolution. Compliance with mediated agreements is also significant with 93% of the parties complying with the agreement made.

IMPACTS

Tenant Impact: If eviction is successful, it goes on the tenants' public records permanently which makes it extremely difficult to located new housing. In addition, displacement and housing instability have mental and physical health impacts. In adults it increases the likelihood of depression and suicide and has physical impacts. In children, it disrupts development and immune system responses and increases likelihood of hospitalization.^{iv} With pre-litigation mediation:

- A judgment for eviction, and record, can be avoided.
- There are more options available for problem resolution.
- A mediator can guide them to other resources within the community.
- A mediator can help give the tenant a voice and can help brainstorm possible solutions.
- A mediator can balance power.
- A mediator can help a tenant understand their options (both best and worst case).

Landlord Impact: When an eviction is necessary, the landlord carries the burden of legal costs and time spent in the process. Eviction legal costs average around \$500, not including potential additional costs with having the sheriff's department formal remove tenants from a residence once an eviction has been granted. While a landlord may seek to

recoup these damages in a court of law, any relief they may be granted may be difficult to collect from a tenant who is already facing financial challenges. With pre-litigation mediation:

- There is no need to legally prove their case (remember 37% of landlords are unsuccessful in court).
- Legal and court filing fees are not necessary.
- The mediator can help remove some of the high emotions associated with evictions.
- Tenants are less likely to damage a property when a landlord works with and communicates positively.
- Mediators can communicate some of the hard truths to tenants, saving the landlord from being “the bad guy”.
- Mediation can occur at any time so precious time is saved and landlords can more quickly get back to business.
- Mediation results in a written agreement which can be used as evidence in court in the unlikely event the agreement is not complied with and an eviction becomes inevitable
- The likelihood a landlord will receive a money agreement is significantly increased. If a payment arrangement is made in mediation, it is paid 93% of the time. If a cash award is ordered by a judge, the likelihood of seeing that money drops to 37%. This is due to that fact that with a judgment, the landlord must in essence become their own bounty hunter and figure out how to garnish wages or bank accounts.
- The cycle of homelessness can be reduced thus lowering the burden on future landlords.

Community Impact: Alongside the public health impacts, eviction and housing stability strains community members and employers who provide informal support to those being evicted and during homelessness. In addition, it strains environmental resources – camping after eviction increases fire risk and increases human waste and likelihood of trash on public land. With pre-litigation mediation:

- Communication is improved. When people mediate, they also learn to speak to be heard and listen to really hear. This benefits all aspects of life and community.
- Funding for other social services can be saved.
- Problems and trends can be identified by the mediator and shared with community leaders.
- The community can proactively get ahead of the eviction and rapidly rehouse or provide other needed supports to transition to permanent housing.

THE HOW:

The NeuroMediation Group LLC, with oversight from the City of Ketchum, will create a pre-litigation mediation program which will:

- Provide education on the benefits of mediation
 - Create literature so tenants can better understand their rights
 - Create literature so landlords can better understand why they benefit from mediation
 - Draft press releases as appropriate
 - Speak with local media to promote the mediation program
- Collaborate with other stakeholders to improve services to tenants and landlords
 - Establish list of support services for those in need
 - Identify individuals in need of assistance
 - Liaisons with the court to develop mediation within the court system, as well
- Provide annual mediation training
- Conduct *no-cost* mediations before court cases are filed
- Create and maintain list of mediators available for unlawful detainer mediation (formal eviction)
- Manage case statistics for the purpose of analyzing effectiveness
- Create reports as requested/required by the City Manager and City Council

THE TEAM:

Carol Barkes, CPM, MBA, PhD (abd) – Fox News named Carol the top neuroscience-based conflict resolution expert in the country. She directed the Idaho's Fourth District Court for many years and managed a team of roughly 70 volunteer mediators. In this capacity, she has overseen and mediated thousands of unlawful detainer eviction cases. She also created the eviction court mediation program for the Idaho Third District Court and now serves the Nevada Supreme Court facilitating their eviction court processes and mediating many of the eviction cases plaguing Clark County, NV; Nevada's most populated county. When she is not mediating, she is an adjunct professor/lecturer at the U of I Law School, BSU and CSI and is a sought-after keynote speaker who has spoken at the United Nations. She is also a best-selling author having co-written *Success Breakthroughs* with renown author, Jack Canfield (*Chicken Soup for the Soul* author) and has been named an Idaho Woman of the Year twice. Carol spends her free time traveling, diving, hiking and enjoying time with her family. (It may be worth noting here that Carol typically bills out at a rate of \$7000 - \$10000 per keynote speech she provides. Her contribution to this project is based on her passion for mediation and belief in the value of eviction mediation.)

Leigh Barer – Passionate about helping people resolve conflict, Leigh K. Barer is a Ketchum-based certified professional mediator (CPM) with experience mediating evictions, small claims and family law conflicts. Her interest in dispute resolution is underscored by her professional training and extensive experience solving complex communication challenges. Before mediation, she spent 15+ years helping countless businesses and nonprofits communicate clearly with their audiences. As a volunteer mediator with multiple Idaho counties, she facilitates conversations between individuals, families, and businesses to resolve conflict most effectively.

Leigh serves on the board of the Idaho Mediation Association, is a member of the Association of Family and Conciliation Courts (AFCC) and is listed on the Idaho Supreme Court Roster for Child Custody Mediators. She has certifications in basic and advanced mediation, child custody mediation, domestic violence mediation, and restorative justice. Leigh earned a bachelor's degree in journalism and mass communications from Seattle University. Spare time is spent outside hiking and snowshoeing the mountains with family and friends.

Mandy Heward – Mandy is a rising star in the Idaho mediation scene. Her background as a deputy clerk and court assistance officer in Cassia County coupled with her legal assistant background makes her an extremely effective mediator. It also makes her the perfect person to oversee an eviction program that overlaps with the courts. Her grasp of the legal process along with her background as a substitute teacher and behavior technician greatly contribute to her ability to help guide her clients reach successful resolutions. She especially enjoys empowering parties to make their own decisions rather than having those decisions given over to a judge. Mandy volunteers her time to the various court mediation program in the state and has been a valuable team member for more than two years. She is also trained in neuroscience-based approaches to mediation which makes her skillset one of the most effective and unique in the state. Mandy has lived in Idaho her entire life and enjoys all the beauty Idaho has to offer. She especially loves her morning walks along the Snake River, camping, spending time outdoors with family and friends, and kayaking.

THE SCOPE OF WORK:

A budget of \$50,000 has been allocated for a one-year pilot program. The estimated distribution of these funds are as follows. Please note, these numbers are rough estimates and will evolve as does the program. That said, the team commits to staying within the budget allocated.

\$13,000.00 - Training – Including, but not limited to, the following:

- Legal Aspects of Unlawful Detainer (Eviction) Proceedings
- Reading a Lease
- Landlord-Tenant Law
- Fair Housing Law
- 40 Hour Mediation Training
- Unlawful Detainer (Eviction) Mediation Training
- Negotiation Training

NOTE: This training will be provided to mediators, caseworkers and stakeholders, as appropriate

\$6,000.00 – Program Oversight and Structuring, Stakeholder Coordination & Team Development (Carol)

NOTE: This expense includes program development, structuring, guidance, etc.

\$2,000.00 – Literature, Forms, Supplies

NOTE: This number could be higher if computer equipment, printers and office furniture is required. The initial hope is these items could be loaned to the program from the City of Ketchum or a stakeholder.

\$5,000.00 – Mediator Reimbursement or Interpreter Services

\$24,000.00 – Program Coordinator Payment to be Shared by Leigh and Mandy

NOTE: Program coordinators will work with Carol to get the program established, create literature, manage marketing, recruit and manage mediators, maintain program statistics, report results, administer budget, etc.

Assuming the program is a success and continues in future years, the money allocated for the legal aid training, 40-hour mediation training and program oversight by Carol will no longer be necessary and those funds can be shifted to pay the Program Coordinators and provide a more basic training update.

ⁱ Sabiha Zainulbhai and Nora Daly, New America, "Informal Evictions: Measuring Displacement Outside the Courtroom," January 20, 2022. <https://www.newamerica.org/future-land-housing/reports/informal-evictions-measuring-housing-displacement-outside-the-courtroom/>

ⁱⁱ Matthew Fowle and Rachel Fyall, University of Washington, "The Impact of the COVID-19 Pandemic on Low-Income Tenants' Housing Security in Washington State," July 2021.

ⁱⁱⁱ Sabiha Zainulbhai and Nora Daly, New America, "Informal Evictions: Measuring Displacement Outside the Courtroom," January 20, 2022. <https://www.newamerica.org/future-land-housing/reports/informal-evictions-measuring-housing-displacement-outside-the-courtroom/>

^{iv} Serby, Michael, David Brody, Shetal Amin, and Philip Yanowitch. 2006. "Eviction as a Risk Factor for Suicide." *Psychiatric Services* 57(2): 273–74. Megan Sandel, Richard Sheward, Stephanie Ettinger de Cuba, Sharon M. Coleman, Deborah A. Frank, Mariana Chilton, Maureen Black, Timothy Heeren, Justin Pasquariello, Patrick Casey, Eduardo Ochoa, Diana Cutts; *Unstable Housing and Caregiver and Child Health in Renter Families.* *Pediatrics* February 2018; 141 (2): e20172199. 10.1542/peds.2017-2199



City of Ketchum

INDEPENDENT CONTRACTOR AGREEMENT 22127 WITH NEUROMEDIATION GROUP LLC FOR SERVICES

This Independent Contractor Agreement (“Agreement”) is made and entered effective to the ____ day of ____ 2022, by and between the City of Ketchum, an Idaho municipal corporation (“City”), and NeuroMediation Group LLC ("Contractor").

FINDINGS

- A. The City is a municipal corporation duly organized and existing under the laws of the State of Idaho.
- B. The City 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. Idaho Code §50-301 *et seq.*
- C. Contractor independently provides certain professional services which may be beneficial and of use for the general welfare of the City.
- D. The City finds that it is economical and efficient and that is in the best interests of the City to contract with Contractor for certain services as set forth herein (“Services”).

NOW, THEREFORE, the Parties enter into this Agreement according to the following terms and conditions:

1. **Description of Services.** Please refer to the scope of services as proposed in the City of Ketchum Pre-Litigation Mediation proposal submitted with this contract.
2. **Payment for Services.** In exchange for the Services, the City shall pay Contractor up to \$50,000.00. Contractor shall be on retainer for \$3,083.33 per month to be invoiced monthly. \$13,000 will be set-aside for training, which will be invoiced as a separate line item. Invoices for payment will be submitted monthly and payment made by City upon City review and approval within approximately thirty days. Contractor and City staff will meet bi-weekly, when the Contractor will report to the City as to the Service activities.
3. **Term.** The term of this Agreement shall be through the duration and conclusion of the Services, not to exceed one year from the date of this Agreement. This term may be renewed or extended upon further written agreement between the parties.
4. **Independent Contractor.** Contractor performs the Services hereunder solely and exclusively as an independent contractor. Contractor is not an employee, servant, agent, partner, or joint venture of the City. The City will determine the projects or Services to be done by Contractor, but Contractor will determine the legal means by which it accomplishes the work specified by the City. This Agreement shall not be construed to create or establish any employee-employee relationship

between the City and Contractor or make Contractor eligible for any City employment benefits. Contractor is solely responsible for all withholding and payment of all applicable federal, state, and local income or payroll taxes of any kind.

5. **Performance and Warranty.** Contractor will provide its own tools and equipment as needed to perform the Services. Contractor warrants that all equipment used to perform this Agreement will function safely, properly, and efficiently. Contractor warrants that all services will be timely performed in a safe, professional, and workmanlike manner.
6. **Indemnification.** Contractor releases, holds harmless, and agrees to indemnify City from and against all claims, suits, damages (including, without limitation, damages to persons and property including deaths, and all tax responsibilities), costs, losses, and expenses, in any manner related to or arising from the acts or omissions of Contractor, its managers, members, directors, officers, shareholders, agents, and employees.
7. **Licensing.** Contractor represents that Contractor possesses the requisite skill, knowledge, and experience necessary to perform the Services. Contractor represents it has or agrees to obtain and maintain all necessary registrations, licenses, and insurance as may be required by the State of Idaho for the performance of the Services under this Agreement.
8. **Insurance.** Contractor is not covered by the City’s liability insurance policy. Contractor shall carry and maintain liability insurance in the following minimum amounts:

General liability	\$1,000,000.00 per occurrence; \$2,000,000.00 aggregate.
Commercial Auto	\$1,000,000.00
Professional Liability	\$1,000,000.00
Worker’s Compensation	As required by the State of Idaho, and not less than \$1,000,000.00

Proof of said insurance shall be provided to City. Each policy of insurance required shall provide for no less than thirty-day advance notice to City prior to cancellation. In addition, the City shall be named a “Additional Insured” by all contractors and subcontractors.

9. **Notice.** All notices under this Agreement shall be in writing and addressed as follows:

CITY:
City of Ketchum
Attn: City Administrator
P.O. Box 2315
191 5th St., West
Ketchum, ID 83340

CONTRACTOR:
NeuroMediation Group LLC
Attn: Carol Barks
6126 W. State Street, Suite 303
Boise, ID 83703

10. **Compliance with Laws/Public Records.** Contractor, its managers, members, directors, officers, shareholders, agents, and employees shall comply with all federal, state and local laws, rules, and ordinances. This Agreement does not relieve Contractor of any obligation or responsibility imposed upon Contractor by law. Without limitation, Contractor hereby acknowledges that all writings and

documents, including without limitation email, containing information relating to the conduct or administration of the public's business prepared by Contractor for City regardless of physical form or characteristics may be public records pursuant to the Idaho Public Records Act. Contractor further acknowledges that, subject to certain limitations, the public may examine and take a copy of all such public writings and records. Accordingly, Contractor shall maintain such writings and records in such a manner that they may readily identified, retrieved and made available for such inspection and copying. Should Contractor wish to claim an exemption to disclosure on any record, Contractor shall identify such in advance and assume all costs of defense on any associated legal action to defend such claimed exemption from disclosure.

11. Non-Assignment. Contractor hereby acknowledges that City has agreed to enter this Agreement based in part on Contractor's unique skills and reputation for professional work. Accordingly, Contractor may not assign, subcontract, or transfer in any manner this Agreement or any of Contractor's right, title or interest in or to this Agreement without the prior written consent of City.
12. Amendments. This Agreement may only be changed, modified, or amended in writing executed by all parties.
13. Non-Waiver. The failure of either party to exercise any of its rights under this Agreement at any time does not constitute a breach of this Agreement and shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.
14. Headings. The headings in the 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 provision hereof.
15. Attorney Fees and Costs. In the event that either party hereto is required to retain the services of an attorney to enforce any of its rights hereunder, the non-prevailing party shall pay to the prevailing party all reasonable costs and attorney fees incurred in such enforcement, whether or not litigation is commenced and including reasonable costs and attorney fees on appeal. Prior to any litigation, the parties agree to first attend mediation as a means of resolving any disputes.
16. Governing Law. This Agreement shall be governed by the laws of the State of Idaho. Venue shall be in the Fifth Judicial District, Blaine County, Idaho.
17. Entire Agreement. This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes any and all prior Agreements between the parties hereto respecting such matter.
18. Severability. If any part of this Agreement is held to be invalid or unenforceable, such part shall be considered as stricken and the rest of this Agreement shall continue in full force and effect and so as to preserve the agreement and intent to the fullest possible extent.
19. Execution and Signatures. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Authority. The parties executing this Agreement warrant, state, acknowledge, and affirm that they have the authority to sign the same and to bind themselves to the terms contained herein.

IN WITNESS WHEREOF, the Parties execute this Agreement.

CITY OF KETCHUM

NEUROMEDIATION GROUP LLC, CONTRACTOR

Neil Bradshaw, Mayor

Carol Barks, President

ATTEST:

Lisa Enourato
Interim City Clerk