



## **Ketchum Urban Renewal Agency**

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**P.O. Box 2315 | 191 5<sup>th</sup> Street | Ketchum, ID 83340**

September 18, 2023

Chair and Commissioners  
Ketchum Urban Renewal Agency  
Ketchum, Idaho

### **RECOMMENDATION TO APPROVE RESOLUTION 23-URA06 AUTHORIZING THE CHAIR TO SIGN REIMBURSEMENT AGREEMENT 50087 BETWEEN THE KURA AND CITY OF KETCHUM**

#### Introduction/History

At the August 21, 2023 meeting the Board agreed to provide funding for two projects proposed by the City. The projects are preparation of the Town Square Master Plan and undergrounding power lines on Highway 75 between Gem Street and Serenade. The KURA would provide partial funding for both projects.

As the Board has done on other projects, staff is recommending the Board enter into a reimbursement agreement with the City memorializing the funding commitment and funding amounts. Staff recommends the Board approve a resolution and agreement. Once the Board has approved the proposed agreement, it will be presented to the City Council for approval.

#### Projects

##### **Town Square Master Plan**

Town Square was commissioned in 2011 and has enjoyed positive and significant use from the community. Several components are at the end of their useful life (water fountain, fireplaces, etc.). Several aspects could also be adjusted to improve functionality and user experience.

The Visitor's Center building lease with Starbucks expires in approximately three years. The lease revenues do not currently cover all operational costs associated with the building. There are also several deferred long-term maintenance items (new roof, logs are pulling away, and upgrade of ADA restrooms).

A competitive request for proposals was solicited from qualified firms to lead a master planning effort. GGLO from Boise was selected based on similar work completed not only in Idaho but the northwest as well. Staff has proposed a three phased effort with significant public engagement and joint meetings with the City Council and URA during each phase.

The Board approved participation in a master plan to engage the public to better understand the current level of satisfaction with both Town Square and the Visitor's Center building to

inform both future public investments as well as direction regarding the solicitation of a new lease. The first phase of the public outreach is completed.

The KURA and City will split the planning/design costs 50/50 which are estimated to not exceed \$112,500. It is important to note these are only estimates for total costs and depend on direction given in Phase One. Specifically, if the City Council and KURA prefer a smaller future scope of improvements, Phases Two and Phase Three design costs would reflect that scaled back direction.

The proposed reimbursement agreement commits the KURA to funding an amount not to exceed \$56,250. This amount will only be necessary depending on future direction given a joint meetings of the KURA and City Council.

### **Undergrounding Power Lines on Highway 75**

The city has been coordinating with the Idaho Transportation Department over the last several years regarding the concept design for roadway and pedestrian improvements from Elkhorn to River Street. The new roadway will create sidewalks on both sides of Highway 75 from Serenade to River Street with accompanying dedicated bike lanes.

Currently, there are aerial powerlines from Gem Street south to the Big Wood River bridge. Undergrounding the powerlines from the area where the new sidewalk will be placed (Gem Street to Serenade) is desired which is estimated at \$486,314. In addition, undergrounding the lines from Serenade to the trees before Weyyakin Drive to provide an improved visual entrance into Ketchum (estimated costs \$413,686). The segment between Gem Street and Serenade is in the KURA District, the segment between Serenade and Weyyakin is outside the KURA District.

The KURA agreed to fund the segment of the undergrounding from Gem Street to Serenade, the City will fund the segment from Serenade to Weyyakin. Idaho Power requested entering into a reimbursement agreement with the city that would require a \$200,000 payment by October 31, 2023, and \$800,000 by the same date of 2024. The KURA agreed to fund 50% of the \$200,000 cost and provide the remaining payment by October 31, 2024. The proposed reimbursement agreement reflects this funding approach.

### **Financial Requirement/Impact**

There are sufficient funds to support the KURA contribution towards the Main Street Master Plan (\$56,250), and undergrounding power lines on Main Street (\$100,000 before Oct 31, 2023 and \$386,314 before October 31, 2024).

### **Recommendation and Motion**

Staff Recommends the Board approve the following motion:

“I move to approve Resolution 23-URA06 authorizing the Chair to sign Reimbursement Agreement 50087 with the City of Ketchum.”

Attachments: Resolution 23-URA06 and Reimbursement Agreement 50087

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF KETCHUM, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF KETCHUM, IDAHO, APPROVING THE PLANNING, DESIGN, ENGINEERING, AND CONSTRUCTION REIMBURSEMENT AGREEMENT FOR THE CITY PROJECTS (MAIN STREET UTILITY UNDERGROUNDING AND TOWN SQUARE MASTER PLAN) ("REIMBURSEMENT AGREEMENT") BETWEEN THE CITY OF KETCHUM AND THE KETCHUM URBAN RENEWAL AGENCY; AUTHORIZING THE CHAIR OR VICE-CHAIR AND SECRETARY, RESPECTIVELY, TO EXECUTE AND ATTEST SAID REIMBURSEMENT AGREEMENT SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE CHAIR OR VICE-CHAIR AND SECRETARY TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO IMPLEMENT THE REIMBURSEMENT AGREEMENT AND TO MAKE ANY NECESSARY TECHNICAL CHANGES TO THE REIMBURSEMENT AGREEMENT SUBJECT TO CERTAIN CONDITIONS, INCLUDING SUBSTANTIVE CHANGES; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION, made on the date hereinafter set forth by the Urban Renewal Agency of Ketchum, Idaho, also known as the Ketchum Urban Renewal Agency, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, Chapter 20, Title 50, Idaho Code, as amended (hereinafter the "Law") and the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, as amended (hereinafter the "Act"), a duly created and functioning urban renewal agency for Ketchum, Idaho, hereinafter referred to as the "Agency."

WHEREAS, the Agency is authorized to undertake and carry out urban renewal projects to eliminate, remedy, or prevent deteriorated or deteriorating areas through redevelopment, rehabilitation, or conservation, or any combination thereof, within its area of operation and is authorized to carry out such projects jointly with the City;

WHEREAS, the City Council, of the city of Ketchum (the "City"), by adoption of Ordinance No. 992 on November 15, 2006, duly adopted the Ketchum Urban Renewal Plan (the "2006 Plan") to be administered by the Agency;

WHEREAS, upon the approval of Ordinance No. 1077 adopted by the City Council on November 15, 2010, and deemed effective on November 24, 2010, the Agency began implementation of the Ketchum Urban Renewal Plan 2010 (the "2010 Plan");

WHEREAS, the 2010 Plan established the Revenue Allocation Area (the “Project Area”);

WHEREAS, the 2010 Plan identified improvement to sidewalks, streets, rights-of-way, pedestrian and bicycle access, crosswalks, and safety as important objectives of the 2010 Plan;

WHEREAS, the 2010 Plan and the Project Area terminate November 15, 2030, recognizing the Agency shall receive its allocation of revenues in 2031, pursuant to Idaho Code § 50-2903(7) (the “Termination Date”). Many of the proposed improvements identified in the 2010 Plan have not been completed and continue to suffer from certain deteriorating conditions;

WHEREAS, the City has requested funding participation from the Agency for undergrounding power lines on Highway 75 between Gem Street to Serenade, preparing a master plan for Town Square improvements, and the Rehabilitation of Main Street;

WHEREAS, these street projects will greatly enhance safety and pedestrian access along one of the busiest streets in Ketchum;

WHEREAS, the master plan for Town Square will identify improvements necessary for maintaining and enhancing Town Square, a project originally funded, in part, by the Agency;

WHEREAS, the City received a preliminary estimate for the costs of undergrounding power lines on Highway 75 from Gem Street to Weyyakin Drive from Idaho Power consisting of two hundred thousand dollars (\$200,000) to be paid by October 31, 2023, and eight hundred thousand dollars (\$800,000) to be paid by October 31, 2024;

WHEREAS, the Agency agreed at its Agency Board meeting on August 21, 2023, to fund fifty percent (50%) of the two hundred thousand dollar (\$200,000) cost estimate, for a total of one hundred thousand dollars (\$100,000) for the undergrounding utility work between Gem Street and Serenade, located within the Agency’s Project Area by October 31, 2023;

WHEREAS, only a portion of the undergrounding project is within the Project Area. The Agency, at its Agency Board meeting on August 21, 2023, agreed to fund the undergrounding improvements between Gem Street and Serenade for a cost of three hundred eighty six thousand, three hundred fourteen dollars (\$386,314) to be paid by October 31, 2024, for a total Agency funded contribution not to exceed, four hundred eighty-six thousand three hundred fourteen dollars (\$486,314);

WHEREAS, the City issued a request for proposal for preparation of the Town Square Master Plan and selected GGLO to prepare the plan. The total cost of the plan is one hundred twelve thousand, five hundred dollars (\$112,500). The City requested the Agency split the cost of the plan and contribute an amount not too exceed fifty six thousand, two hundred and fifty dollars (\$56,250). The Agency agreed, at its Agency Board meeting on August 21, 2023, to fund fifty percent (50%) of the cost of the Town Square Master Plan that is one hundred twelve thousand, five hundred dollars (\$112,500) for an Agency contribution of fifty six thousand, two hundred fifty dollars (\$56,250);

WHEREAS, the Agency Board finds it in the best interests of the Agency to continue to enhance the development within the Project Area and in the best interests of the public to provide financial support for undergrounding of power lines on Main Street between Gem Street and Serenade, and preparation of a Town Square Master Plan;

WHEREAS, the Agency hereby finds and determines that this Reimbursement Agreement enables them to cooperate to their mutual advantage in a manner that will best accord with the needs and development of the City and the Agency;

WHEREAS, the ability for the City and Agency to cooperate and jointly benefit each other is expressly allowed pursuant to Idaho Code § 50-2015;

WHEREAS, Agency staff has reviewed the Reimbursement Agreement and recommends approval of the Reimbursement Agreement subject to certain conditions;

WHEREAS, the Board of Commissioners finds it in the best public interest to approve the Reimbursement Agreement and to authorize the Chair or Vice-Chair to execute and attest the Reimbursement Agreement, subject to certain conditions, and to execute all necessary documents to implement the transaction, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE KETCHUM URBAN RENEWAL AGENCY OF THE CITY OF KETCHUM, IDAHO, AS FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the Reimbursement Agreement, attached hereto as Exhibit A, is hereby incorporated herein and made a part hereof by reference and is hereby approved and accepted, recognizing technical changes or corrections which may be required prior to execution of the Reimbursement Agreement.

Section 3: That the Chair or Vice-Chair and Secretary of the Agency are hereby authorized to sign and enter into the Reimbursement Agreement and, further, are hereby authorized to execute all necessary documents required to implement the actions contemplated by the Phase 1 Reimbursement Agreement subject to representations by the Agency staff and Agency legal counsel that all conditions precedent to and any necessary technical changes to the Reimbursement Agreement or other documents are acceptable upon advice from the Agency's legal counsel that said changes are consistent with the provisions of the Reimbursement Agreement and the comments and discussions received at the September 18, 2023, Agency Board meeting, including any substantive changes discussed and approved at that meeting.

Section 4: That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED By the Urban Renewal Agency of Ketchum, Idaho, on September 18, 2023. Signed by the Chair of the Board of Commissioners and attested by the Secretary to the Board of Commissioners, on September 18, 2023.

URBAN RENEWAL AGENCY OF KETCHUM

By \_\_\_\_\_  
Susan Scovell, Chair

ATTEST:

By \_\_\_\_\_  
Secretary

**KURA Agreement 50087**  
**PLANNING, DESIGN, ENGINEERING, AND**  
**CONSTRUCTION REIMBURSEMENT AGREEMENT FOR CITY PROJECTS**  
**(Main Street Utility Undergrounding, and Town Square Master Plan)**

THIS PLANNING, DESIGN, ENGINEERING, AND CONSTRUCTION REIMBURSEMENT AGREEMENT FOR CITY PROJECTS (the “Reimbursement Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the city of Ketchum, Idaho, a municipal corporation of the state of Idaho (the “City”), and the Urban Renewal Agency of the city of Ketchum, Idaho, also known as the Ketchum Urban Renewal Agency, an independent public body corporate and politic (the “Agency”), individually referred to as “Party” and collectively as the “Parties.”

**RECITALS**

WHEREAS, the Agency is authorized to undertake and carry out urban renewal projects to eliminate, remedy, or prevent deteriorated or deteriorating areas through redevelopment, rehabilitation, or conservation, or any combination thereof, within its area of operation and is authorized to carry out such projects jointly with the City;

WHEREAS, the City Council, of the city of Ketchum (the “City”), by adoption of Ordinance No. 992 on November 15, 2006, duly adopted the Ketchum Urban Renewal Plan (the “2006 Plan”) to be administered by the Agency;

WHEREAS, upon the approval of Ordinance No. 1077 adopted by the City Council on November 15, 2010, and deemed effective on November 24, 2010, the Agency began implementation of the Ketchum Urban Renewal Plan 2010 (the “2010 Plan”);

WHEREAS, the 2010 Plan established the Revenue Allocation Area (the “Project Area”), which established an area for redevelopment and anticipated improvement projects;

WHEREAS, the 2010 Plan identified improvement to sidewalks, streets, rights-of-way, pedestrian and bicycle access, crosswalks, and safety as important objectives of the 2010 Plan;

WHEREAS, the 2010 Plan and the Project Area terminate November 15, 2030, recognizing the Agency shall receive its allocation of revenues in 2031, pursuant to Idaho Code § 50-2903(7) (the “Termination Date”). Many of the proposed improvements identified in the 2010 Plan have not been completed and continue to suffer from certain deteriorating conditions;

WHEREAS, the City has requested funding participation from the Agency for undergrounding power lines on Highway 75 between Gem Street to Serenade, preparing a master plan for Town Square improvements, and the Rehabilitation of Main Street;

WHEREAS, these street projects will greatly enhance safety and pedestrian access along one of the busiest streets in Ketchum;

WHEREAS, the master plan for Town Square will identify improvements necessary for maintaining and enhancing Town Square, a project originally funded, in part, by the Agency;

WHEREAS, the City received a preliminary estimate for the costs of undergrounding power lines on Highway 75 from Gem Street to Weyyakin Drive from Idaho Power consisting of two hundred thousand (\$200,000) to be paid by October 31, 2023, and eight hundred thousand dollars (\$800,000) to be paid by October 31, 2024, see Exhibit A attached;

WHEREAS, the Agency agreed at its Agency Board meeting on August 21, 2023, to fund fifty percent (50%) of the two hundred thousand dollar (\$200,000) cost estimate, for a total of one hundred thousand dollar (\$100,000) for the undergrounding utility work between Gem Street and Serenade, located within the Agency's Project Area by October 31, 2023;

WHEREAS, only a portion of the undergrounding project is within the Project Area. The Agency, at its Agency Board meeting on August 21, 2023, agreed to fund the undergrounding improvements between Gem Street and Serenade for a cost of three hundred eighty-six thousand, three hundred fourteen dollars (\$386,314) to be paid by October 31, 2024, for a total Agency funded contribution not to exceed, four hundred eighty-six thousand three hundred fourteen dollars (\$486,314).

WHEREAS, the City issued a request for proposal for preparation of the Town Square Master Plan and selected GGLO to prepare the plan. The total cost of the plan is one hundred twelve thousand, five hundred (\$112,500). The City requested the Agency split the cost of the plan and contribute an amount not too exceed fifty-six thousand, two hundred and fifty dollar (\$56,250). The Agency agreed, at its Agency Board meeting on August 21, 2023, to fund fifty percent (50%) of the cost of the Town Square Master Plan that is one hundred twelve thousand, five hundred dollars (\$112,500) for an Agency contribution of fifty six thousand, two hundred fifty dollars (\$56,250);

WHEREAS, the Agency Board finds it in the best interests of the Agency to continue to enhance the development within the Project Area and in the best interests of the public to provide financial support for undergrounding of power lines on Main Street between Gem Street and Serenade, and preparation of a Town Square Master Plan;

WHEREAS, the City and the Agency hereby find and determine that this Reimbursement Agreement enables them to cooperate to their mutual advantage in a manner that will best accord with the needs and development of the City and the Agency;

WHEREAS, the ability for the City and Agency to cooperate and jointly benefit each other is expressly allowed pursuant to Idaho Code § 50-2015;

WHEREAS, in consideration of the payment by the Agency for costs, as more specifically defined in this Reimbursement Agreement, the City hereby agrees to serve and perform as project manager for the final planning, design, engineering, and construction of the Project; said final design to be subject to the review and approval of the Agency.



## **AGREEMENT**

NOW, THEREFORE, in consideration of the provisions contained herein and the recitals set forth above, which are a material part of this Reimbursement Agreement, the Parties agree as follows:

1. **Definitions.** As used in this Reimbursement Agreement, the following words, unless the context dictates otherwise, shall have the following meanings:

**Act** shall mean collectively the Idaho Urban Renewal Law of 1965, title 50, chapter 20, Idaho Code, as amended and supplemented and the Local Economic Development Act of 1988, title 50, chapter 29, Idaho Code as amended and supplemented.

**Board** shall mean the Board of Commissioners of the Agency as the same shall be duly and regularly constituted from time to time.

**Contract** shall mean the contract through which the general contractor is awarded the construction of the Project.

**Contractor** shall mean the selected general contractor awarded the construction of the Project.

**Design Consultant** shall mean the selected design firm to prepare the Town Square Master Plan.

**Project** shall mean the undergrounding of power lines between Gem Street and Serenade in the City of Ketchum.

2. **Recitals and Purpose**

- a. The Parties agree that the foregoing recitals are not mere recitations but are covenants of the Parties, binding upon them as may be appropriate and a portion of the consideration for the agreements contained herein.
- b. The purpose of this Reimbursement Agreement is to provide for the definition of rights, obligations, and responsibilities of the Agency and City regarding the planning, design services, engineering services, project management services, and cost estimating services for this Reimbursement Agreement.

3. **City Services and Responsibilities for the Undergrounding of Power Lines on Main Street.** City agrees to furnish its skill and judgment necessary to carry out the project administration for the Project.

3.1 Planning, Design, Engineering, and Construction. City shall oversee Idaho Power's construction management and administration for the Project. updates on the construction of the Project for Agency review and comment.

3.3 Project Construction Estimates. City has obtained estimates from Idaho Power for the Project.

3.4 Design and Construction. The obligations under this Reimbursement Agreement shall end thirty (30) days after final payment to the Contractor under the Contract has been paid. The City shall:

- a. Provide administration of the Project in compliance with generally accepted standards recognizing that the Project is a partially Agency funded project with the City providing project oversight.
- b. Provide necessary project oversight to assure timely progress and process all invoices and payment requests and verify Idaho Power's entitlement to all progress payments or other payments requested by Contractor;
- e. Receive and hold all certificates of insurance required by the Contract;
- f. Provide monthly progress reports to Agency either in writing or by presentation to Agency at Agency's Board meetings;
- h. Maintain all necessary records, documents, drawings, and other related documents normally maintained for a public works project; and

3.5 City Contribution. A portion of this Project as described in this Reimbursement Agreement is within the Project Area and is funded through the Agency. The City has budgeted funds for a portion of the work. City shall contribute all funds toward any work or improvements to areas outside the Project Area.

4. **City Services and Responsibilities for the Town Square Master Plan.** City, in partnership with the Agency, agrees to manage the Town Square Master Plan project and the Design Consultant necessary to carry out the project administration.

4.1 Planning, and Design. City and Agency shall coordinate hiring of necessary planning and design services for the Town Square Master Plan. City shall provide the Agency with periodic reports and updates on the completion of the final design services, for Agency review and comment, including approval of the final design of the Project.

4.2 City and Agency Contribution. The Town Square Master Plan as described in this Reimbursement Agreement, relates to the first phase of the Town Square Master Plan, consisting of planning and design services which are within the Project Area and is

funded fifty percent (50%) by the Agency and fifty percent (50%) by the City. The City has budgeted funds for a portion of the work. City shall contribute all funds toward any work or improvements to areas outside the Project Area.

5. **Agency and City Obligations.** The purpose of this Reimbursement Agreement is to provide for the definition of rights, obligations, and responsibilities of the Agency and City regarding the Project.

6. **Effective Date.** This Reimbursement Agreement shall be effective upon execution of the Reimbursement Agreement by Agency's Chairman of the Board of Commissioners and the Mayor of the City and/or the City Administrator, as the case may be, the effective date being the date of last signature.

7. **Method of Reimbursement.**

- a. **Project Costs.** As consideration for the public improvement and value of the Project set forth above, the Agency shall pay the City one hundred thousand dollars (\$100,000) by October 31, 2023, and three hundred eighty-six thousand three hundred fourteen dollars (\$386,314) before October 31, 2024, toward the Project cost estimate provided by Idaho Power. For a total funding contribution by the Agency, not to exceed four hundred eighty-six thousand three hundred fourteen dollars (\$486,314) All project costs related to areas outside of the Project Area will be borne by the City.
- b. **Town Square Master Plan.** As consideration for the public improvement and value of the Project set forth above for the Town Square Master Plan, the Agency shall fund fifty (50%) of the cost estimate of the Town Square Master Plan phase 1, consisting of planning and design services. Agency's funding contribution to the City will not exceed fifty-six thousand, two hundred fifty dollars (\$56,250).

In order to provide sufficient documentation to ensure compliance, the City shall provide the Agency with the following information in reimbursement invoices and in a final invoice upon completion of the Project and the Town Square Master Plan:

- a. requests for payment for billing invoices received for work related to the Project and Town Square Master Plan with sufficient documentation to ensure accuracy;
- c. certification by the City that the costs incurred for services are consistent with the scope of the Project and the Town Square Master Plan; and
- d. monthly reports on the Town Square Master Plan and Project status as described above.

Upon receipt and approval of the reimbursement invoice, Agency shall remit payment to City for all approved amounts within forty-five (45) days of Agency's receipt of an invoice or

payment request. If Agency disputes any amount, Agency shall pay the undisputed amount within forty-five (45) days and reasonably cooperate with City to resolve the disputed amount. City shall include this payment process within the Contract with the selected contractor.

7. **Records Project Costs.** Costs pertaining to the Project shall be kept on the basis of generally accepted accounting principles and shall be available to the Agency or the Agency's authorized representative at mutually convenient times.

8. **Insurance.**

- a. The City (either itself, Idaho Power, or the selected Contractor) shall purchase and maintain, for the benefit of the City and the Agency, insurance for protection from claims under the worker's compensation law of the state of Idaho arising from work performed on the Project and the Town Square Master Plan; claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any of the City's employees or of any person while working on the Project and the Town Square Master Plan; claims for damages because of injury to or destruction or loss of use of tangible property as a result of work on the Project; and claims arising out of the performance of this Reimbursement Agreement and caused by negligent acts for which the City is legally liable. The terms and limits of liability shall be determined solely by the City, and nothing herein shall be construed as any waiver of any claim or defense by the City or the Agency premised upon any claim of sovereign immunity or arising from the Idaho Tort Claims Act. The amount of insurance shall be in the amounts set forth in the Idaho Tort Claims Act.
- b. The City shall also purchase and maintain for the benefit of the City and Agency property damage insurance for any property damage to the Project, the Town Square Master Plan, or other property owned by the City.

9. **Indemnity.** Only to the extent permitted by Idaho law, the City shall defend, indemnify, and hold Agency and their respective officers, agents, and employees harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable planning, design and engineering fees, and attorney fees (collectively referred to in this section as "Claim"), which may be imposed upon or incurred by or asserted against Agency or its respective officers, agents, and employees relating to the planning, design, and engineering of the Project or otherwise arising out of this Reimbursement Agreement. In the event an action or proceeding is brought against Agency or their respective officers, agents, and employees by reason of any such Claim, City, upon written notice from Agency, shall, at City's expense, resist or defend such action or proceeding.

Notwithstanding the foregoing, City shall have no obligation to indemnify and hold Agency and its respective officers, agents, and employees harmless from and against any matter to the extent it arises from the negligence or willful act of Agency or its respective officers, agents, or employees or from conduct resulting in an award of punitive damages against Agency.

10. **Amendment.** This entire Reimbursement Agreement may be amended at any time and from time to time by the mutual written consent of the City and the Agency.

11. **Severability.** In the event any provision of this Reimbursement Agreement shall be declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12. **Notice.** Any and all notices required to be given by either of the Parties hereto, unless otherwise stated in this Reimbursement Agreement, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

To Agency:  
Susan Scovell , Chair  
Ketchum Urban Renewal Agency  
P.O. Box 2315  
Ketchum, ID 83340

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

13. **Non-Waiver.** Failure of either Party to exercise any of the rights under this Reimbursement Agreement, or breach thereof, shall not be deemed to be a waiver of such right or a waiver of any subsequent breach.

14. **Choice of Law.** Any dispute under this Reimbursement Agreement, or related to this Reimbursement Agreement, shall be decided in accordance with the laws of the state of Idaho.

15. **Attorney Fees.** Should any litigation be commenced between the Parties hereto concerning this Reimbursement Agreement, the prevailing Party shall be entitled, in addition to any other relief as may be granted, to costs and reasonable attorneys' fees as determined by a court or arbitrator of competent jurisdiction. This provision shall be deemed to be a separate contract between the Parties and shall survive any default, termination, or forfeiture of this Reimbursement Agreement.

16. **Authority to Execute.** Agency and City have duly authorized and have full power and authority to execute this Reimbursement Agreement.

17. **Assignment.** It is expressly agreed and understood by the Parties hereto that the City shall not have the right to assign, transfer, hypothecate, or sell any of its rights under this Reimbursement Agreement except upon the prior express written consent of Agency.

18. **Disputes.** In the event that a dispute arises between Agency and City regarding application or interpretation of any provision of this Reimbursement Agreement, the aggrieved Party shall promptly notify the other Party to this Reimbursement 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, each Party shall have the right to pursue any rights or remedies it may have at law or in equity.

**19. Anti-Boycott Against Israel Certification.**

City and Agency hereby certify pursuant to Section 67-2346, Idaho Code, they are not currently engaged in, and will not for the duration of this Agreement, knowingly engage in, a boycott of goods or services from Israel or territories under its control.

**20. Government of China Owned Companies Prohibited**

The Developer is not currently owned or operated by the government of China and will not for the duration of this Agreement be owned or operated by the government of China.

**21. Entire Agreement.** This Reimbursement Agreement along with any and all exhibits attached hereto and incorporated herein by reference contains and integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the Project.

IN WITNESS WHEREOF, the Parties hereto, through their respective governing boards, have executed this Reimbursement Agreement on the date first cited above.

CITY OF KETCHUM

By \_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

KETCHUM URBAN RENEWAL AGENCY

By \_\_\_\_\_  
Susan Scovell, Chair

ATTEST:

\_\_\_\_\_  
Secretary

## **Exhibit A**

### Idaho Power Estimate

## Idaho Power Cost Estimates

Option 1:      Gem Street to south of proposed round about at Serenade Ln:    \$486,314

Option2:      Gem Street to south of Weyyakin Drive:                                \$900,000