

**KETCHUM URBAN RENEWAL BOARD MEETING AGENDA**  
**Monday, November 3, 2014, beginning at 5:00 p.m.**  
**480 East Avenue, North, Ketchum, Idaho**



1. CALL TO ORDER
2. COMMUNICATIONS FROM THE BOARD OF COMMISSIONERS
3. COMMUNICATIONS FROM STAFF
  - a. Lease Agreement with Windermere Real Estate – Suzanne Frick, Executive Director.
4. COMMUNICATIONS FROM THE PUBLIC.
  - a. Communications from the public.
5. CONSENT CALENDAR.
  - a. Approval of Minutes: August 18, 2014 and August 26, 2014.
  - b. Approval of current bills.
6. ADJOURNMENT.

Any person needing special accommodations to participate in the above noticed meeting should contact the Ketchum Urban Renewal Agency prior to the meeting at (208) 726---3841.

This agenda is subject to revisions and additions. NOTE: Revised portions of the agenda are underlined in bold. Public information on agenda items is available in the Clerk's Office located at 480 East Ave. N in Ketchum or (208) 726---3841.

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Ketchum Urban Renewal Agency  
P.O. Box 2315  
Ketchum, ID 83340  
**BASIC LEASE INFORMATION**

Date: November , 2014

Landlord: Ketchum Urban Renewal Agency

Tenant: Windermere Real Estate

Article 1 Premises: 491 Sun Valley Rd, Ketchum, ID 83340

Article 1 Square Footage of the Premises: Approximately 800 Rentable Square Feet

Article 2 Lease Commencement Date: November 10, 2014

Article 2 Lease Expiration Date: November 10, 2016

Article 4 Monthly Rental: Eight Hundred and 00/100 Dollars (\$800.00), which includes all common area expenses such as utilities, janitorial services, property taxes, trash, snow removal and outdoor maintenance

Article 5 Tenant's Percentage Share of Building: 13.79%

Article 32 Security Deposit: One Thousand and 00/100 Dollars (\$1,000.00)

Article 36 Tenant's Address for notices: P.O. Box 2307  
Sun Valley, ID 83353

Article 49 Rules and Regulations  
Exhibit A - Floor Plan  
Exhibit B - Space Plan  
Exhibit C - Leasehold Improvements Agreement  
Exhibit D - Legal Description  
Exhibit E - Rental Schedule

The provisions of the Lease identified above in the margin are those provisions where references to particular Basic Lease Information appear. Each such reference shall incorporate the applicable Basic Lease Information. In the event of any conflict between any Basic Lease Information and the Lease, the Lease shall control.

TENANT: WINDERMERE REAL ESTATE

LANDLORD: KETCHUM URBAN RENEWAL AGENCY

By: \_\_\_\_\_  
Name: Dan Gorham  
Title: Managing Broker

By: \_\_\_\_\_  
Name: Mark Eshman  
Title: Chairman

STATE OF IDAHO

STANDARD COMMERCIAL LEASE

Visitors Center Building  
491 Sun Valley Road  
Ketchum, ID 83340

THIS LEASE (this "Lease"), dated November \_\_\_\_, 2014, is entered into by and between Ketchum Urban Renewal Agency("Landlord") as Landlord, and Windermere Real Estate ("Tenant"), as Tenant.

1. PREMISES

(a) Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the term and subject to the agreements, conditions and provisions hereinafter set forth, to each and all of which Landlord and Tenant hereby mutually agree, those certain premises (the "Premises") shown cross-hatched on Exhibit "A", attached hereto and made a part hereof for all purposes, and situated on the westerly rear portion of 491 Sun Valley Road, the Visitors Center Building, located in Ketchum, Idaho, specified in the Basic Lease Information entered into by Landlord and Tenant concurrently herewith and attached hereto as the cover page of this Lease (the "Basic Lease Information"), and consisting of approximately 400 square feet of rentable area. The Premises are situated in a building (the "Building") being located at the above mentioned address and being situated on the real property more fully described on Exhibit "D", attached hereto and made a part hereof for all purposes (the Building, the real property, other buildings and improvements thereon, and any parking facilities or structures appurtenant thereto, are hereinafter referred to collectively as the "Property"). Landlord shall have the right to verify the actual square footage of the Premises from time to time during the term of this Lease and to adjust the number of square feet of rentable area of the Premises set forth above to reflect the actual square footage of the Premises as determined by measurement.

(b) As long as this Lease remains in effect and Tenant is not in default hereunder, Tenant shall have the nonexclusive right to use, in common with Landlord, other tenants, subtenants, employees and invitees, the lobbies, entrances, stairs, elevators, restrooms and other public portions of the Building (the "Common Area"); provided, however, that Landlord shall have the right at any time to exclude from the Common Area such areas as Landlord may determine so long as access to the Premises is not unreasonably denied. All of the outside walls and windows of the Premises and any space in the Premises used for shafts, stacks, pipes, conduits, ducts, and electric or other utilities, sinks, or other Building facilities, and the use thereof and access thereto through the Premises for the purpose of operation, replacement, maintenance and repair, are reserved to Landlord.

2. TERM, COMPLETION OF IMPROVEMENTS

(a) The term of this Lease shall commence and unless sooner terminated as hereinafter provided shall end on the dates respectively specified in the Basic Lease Information. The Term shall be for the period designated in the Basic Lease Information commencing on the Commencement Date, and the first Term shall end on the Expiration Date, set forth in the Basic Lease Information. Tenant shall be entitled to renew the Lease for two additional two year terms at fair market value determined by the Landlord. In order to exercise such option, Tenant shall provide written notice of Tenant's intention to exercise such option to Landlord at the address set forth herein at least 180 days prior to the expiration of the term. Prior to the commencement of the term of this Lease, Landlord shall complete, construct or install in the Premises the improvements, if any, to be constructed or installed by Landlord as shown on the space plan attached hereto as Exhibit "B" and made a part hereof for all purposes upon the terms and conditions set forth in the Leasehold Improvements Agreement (the "Agreement"), attached hereto as Exhibit "C" and made a part hereof for all purposes. The Premises shall be deemed complete and possession delivered to Tenant and accepted by Tenant upon the date Tenant commences occupancy of any portion of the Premises or when Landlord has substantially completed such improvements, if any, whichever occurs first. As used in this Section 2 and the Agreement, the phrase "substantial completion" shall mean when (i) installation of building standard improvements (as described in Exhibit "C") has occurred, (ii) Tenant has direct access from street to the floor where the Premises are located, and (iii) building services are ready to be furnished to the Premises. Substantial completion shall be deemed to have occurred notwithstanding a requirement to complete "punchlist" or similar corrective work. Landlord shall use its best efforts to advise

Tenant of the anticipated date of substantial completion at least ten (10) days prior to such date, but the failure to give such notice shall not constitute a default by Landlord under this Lease.

(b) If Landlord, for any reason whatsoever other than Tenant's delay (as defined in the Agreement), cannot deliver possession of the Premises to Tenant at the commencement of the term of this Lease, as above specified, (i) this Lease shall not be void or voidable and such failure shall not affect the validity of this Lease or the obligations of Tenant hereunder, and (ii) Landlord shall not be liable to Tenant for any loss or damage resulting therefrom; provided, however, monthly rental shall be waived for the period between the commencement of the term of this Lease and the time when Landlord can deliver possession. No delay in delivery of possession shall operate to extend the term hereof. In the event that Landlord shall permit Tenant to occupy the Premises prior to the commencement date of this Lease, such occupancy shall be subject to all of the provisions of this Lease and shall not affect the expiration date of this Lease. Upon Landlord's request, Landlord and Tenant shall execute an acceptance of premises Rider establishing the commencement date of this Lease and confirming the expiration date of this Lease, but this Lease shall not be affected in any manner if either party fails or refuses to execute such Rider. Any abatement of monthly rental pursuant to this Article 2 shall constitute full settlement of all claims that Tenant might otherwise have against Landlord by reason of the Premises not being delivered to Tenant on the commencement date of this Lease.

(c) Subject to the terms and provisions of the Agreement attached hereto as Exhibit "C", Tenant acknowledges that it has fully inspected the Premises, and by moving into the Premises or taking possession thereof, Tenant accepts the Premises "AS IS, WHERE IS", as suitable for the purposes for which the same are leased and in their present condition. Tenant further acknowledges that Landlord has made no warranties or representations with respect to the Property, the Building, the Premises or otherwise or as to either the condition or the suitability of the Property, the Building or the Premises for the use described in Section 6 below, and Tenant hereby waives any and all defects with respect thereto. This Lease is, and shall be considered as, the only agreement between the parties hereto and their representatives and agents. All negotiations and oral agreements have been merged into and are included herein. There are no other representations or warranties between the parties and any reliance with respect to representations is solely upon the representations and agreements contained in this Lease, if any.

### 3. NONOCCUPANCY OF IMPROVED PREMISES/CONCESSION RECAPTURE

(a) In the event Tenant does not occupy the Premises, all interior finishing costs other than building standard, among other amounts owed by Tenant hereunder, shall become due and payable by Tenant upon billing by Landlord, together with interest thereon at the rate of ten percent (10%) per annum.

(b) In the event Landlord provides Tenant any concessions including, without limitation, rent abated occupancy, and/or tenant improvements, Tenant acknowledges, understands and agrees that (i) any concessions are personal to Tenant and shall not be assigned or sublet, in whole or in part, to any assignee or subtenant without the prior written approval of Landlord, and (ii) Landlord has provided any such concessions to Tenant in reliance upon Tenant's warranty that Tenant shall faithfully and timely perform all terms, provisions and conditions contained in this Lease. Accordingly, in the event Tenant fails, after written notice to Tenant as required by this Lease, to timely perform any term, provision or condition of this Lease, including, without limitation, the timely payment of rent, any concessions herein provided Tenant shall be immediately due and payable as additional rent without further notice or demand to Tenant.

### 4. RENTAL

(a) Tenant shall pay, and hereby promises and agrees to pay, to Landlord as initial minimum guaranteed monthly rental the amount of **Eight Hundred and 00/100 Dollars (\$800.00)**. The minimum guaranteed rental shall be subject to annual cost-of-living increases proportionate to any increases in the "CPI" (as defined below), effective as of the first day of each "Lease Period" (as defined below). The adjusted rental shall be obtained by multiplying the "Base Rental" (as defined below) by a number equal to one (1) plus the following formula:  $[(CPI-2/CPI-1)-1]$ . In applying this formula for rental adjustment, the following definitions shall be used:

(i) The term "Lease Period" shall mean any period of one year commencing on the Commencement Date of this lease or any anniversary of such date.

(ii) The "Base Rental" shall mean the minimum guaranteed rental charged during the Lease Period immediately preceding the Lease Period for which the adjustment of rental is being computed; provided, however, if an increase in the minimum guaranteed rental is to begin on the commencement of, or during, the Lease Period for which the adjustment of rental is being computed, then as of the date specified for such increase in the minimum guaranteed rental, "Base Rental" shall mean the minimum guaranteed rental, as so increased.

(iii) The term "Bureau" shall mean the U.S. Department of Labor, Bureau of Labor Statistics or any successor agency of the United States that shall issue the indexes or data referred to in subsection (d) below.

(iv) The term "CPI" shall mean the monthly indexes of the Consumer Price Index for All Urban Consumers, U.S. City Average (All Items; 1982-84 equals 100) issued by the Bureau.

(v) The term "CPI-1" shall mean the monthly CPI for the latest calendar month which ends at least 180 days before the commencement of the Lease Period immediately preceding the Lease Period for which the adjustment of rental is being computed.

(vi) The term "CPI-2" shall mean the higher of (i) CPI-1 or (ii) the monthly CPI for the latest calendar month which ends at least 180 days before the commencement of the Lease Period for which the adjustment of rental is being computed.

In the event that (i) the Bureau ceases to use the 1982-84 average of 100 as the basis of calculation, or (ii) a substantial change is made in the number or character of "market basket" items used in determining the CPI, or (iii) Landlord and Tenant mutually agree in writing that the CPI does not accurately reflect the purchasing power of the dollar, or (iv) the CPI shall be discontinued for any reason, Landlord shall designate from indexes supplied by the Bureau an alternative index comparable to the CPI together with information which will make possible the conversion to the alternative index in computing the adjusted rental. If for any reason the Bureau does not furnish such an index and such information, the parties shall thereafter accept and use such other index of comparable statistics on the cost of living for the county in which the Demised Premises is located, as shall be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority then to be selected by Landlord (but subject to reasonable approval by Tenant).

(b) Rental shall accrue from the Commencement Date, and shall be payable to Landlord's address as follows: Ketchum Urban Renewal Agency, c/o Eagan Real Estate, Inc., P. O. Box 6264, Sun Valley, ID, 83354, Phone (208) 725-0800, Fax (208) 727-1091.

(c) Tenant shall pay to Landlord minimum guaranteed rental in monthly installments. The first such monthly installment shall be due and payable on or before the Commencement Date, and subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the lease term; provided that if the Commencement Date is a date other than the first day of a calendar month, there shall be due and payable on or before such date as minimum guaranteed rental for the balance of such calendar month a sum equal to that proportion of the rent specified for the first full calendar month as herein provided, which the number of days from the Commencement Date to the end of the calendar month during which the Commencement Date shall fall bears to the total number of days in such month. If any such rental payment is not received by Landlord within ten (10) days of the date such rental payment is due, an additional amount equal to ten percent (10%) of such delinquent rental payment shall become due and payable. Tenant recognizes that such additional amount is necessary to reimburse Landlord for its loss of use of rental fees as well as to compensate Landlord for the added administrative, legal and bookkeeping expenses resulting from such delinquent rental payment.

(d) Notwithstanding any expiration or termination of this Lease prior to the expiration date of this Lease, Tenant's obligation to pay any and all additional rent under this Lease shall continue and shall cover all periods up to the expiration date of this Lease. Tenant's obligation to pay any and all additional rent under this Lease and Landlord's and Tenant's obligation to make the adjustments referred to in this Article 4 shall survive any expiration or termination of this Lease prior to the expiration date of this Lease.

## 5. USE

(a) The Premises shall be used for business office purposes and no other. Tenant shall not do or permit to be done in or about the Premises, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with or violate any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated or which is prohibited by the standard form of fire insurance policy, or will in any way increase the existing rate of or affect any fire or other insurance upon the Property, the Building or any of its contents, or cause a cancellation of any insurance policy covering the Property, the Building or any part thereof or any of its contents. Tenants shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants of the Building, or injure or annoy them, or use or allow the Building, the Property or the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Building, the Property or the Premises or commit or suffer to be committed any waste in, on or about the Building, the Property or the Premises.

(b) Tenant shall not be allowed to use the name of the Building in which the Premises are located, or words to that effect, in connection with any business carried on in said Premises (except as Tenant's address) without the prior written consent of Landlord. Landlord shall have the right at any time during the term of this Lease, upon giving Tenant thirty (30) days prior notice in writing, to provide and furnish Tenant with space elsewhere in the Building of approximately the same size and area as the Premises and to remove and place Tenant in such new space. Any such substitution is affected only for the purpose of accommodating a tenant that will occupy all or a substantial portion of the net rental area of the floor on which the Premises are located, and, if Tenant is occupying the Premises at the time of any such substitution, Landlord shall pay the expense of moving Tenant, its property and equipment to the new space, and shall, at Landlord's sole cost, improve the new space with improvements substantially similar to those located in the Premises. If Tenant refuses to permit the Landlord to move Tenant to such new space at the end of said thirty (30) day period, Landlord shall have the right to cancel and terminate this Lease effective immediately, without further notice to Tenant. In the event Landlord moves Tenant to said new space, then this Lease and each and all of the terms, covenants, and provisions thereof, shall thereupon remain in full force and effect and be deemed applicable to such new space and Tenant agrees to execute a Memorandum of Lease to this effect.

## 6. SERVICES

(a) Landlord shall maintain the Common Areas of the Building in reasonably good order and condition except for damage occasioned by the act of Tenant, which damage shall be repaired by Landlord at Tenant's expense.

(b) Landlord shall furnish the Premises with (i) electricity sufficient to provide power for typewriters, desktop computers, facsimile machines, and other office machines of similar low electrical consumption; provided, however, Landlord shall not be required to provide electricity required for electronic data processing equipment, special lighting in excess of building standard improvements, and any other item of electrical equipment which (singly) consumes more than .5 kilowatts per hour at rated capacity or requires a voltage other than one hundred twenty (120) volts single phase and if the installation of such electrical equipment requires additional air conditioning capacity above that provided by the building standard improvements, the additional air conditioning installation and operating costs shall be paid by Tenant, (ii) heat and air conditioning to the extent reasonably required for the comfortable occupation of the Premises during reasonable and usual business hours, 7:00 a.m. to 6:00 p.m. weekdays and 8:00 a.m. to 6:00 p.m. on Saturdays, Sundays and State and National Holidays, or such shorter period specified or prescribed by any applicable policies or regulations adopted by any utility or government agency, (iii) elevator service, (iv) lighting replacement (for building standard lights), (v) restroom supplies, (vi) janitorial service on a (5) day per week basis for common areas including restrooms. Tenant is responsible for and shall pay all costs of janitorial services for the Premises.

(c) Landlord shall not be liable to Tenant for any losses, including personal injury and property damage, that may result to Tenant from theft, burglary or intentional conduct on the part of any person or entity, or for damages directly or indirectly resulting therefrom, nor shall the rental herein reserved be abated by reason of (1) the installation, use or interruption of any services, (2) the failure to furnish or delay in furnishing any such services when such failure or delay is caused by accident or any condition beyond the reasonable control of Landlord or by the making of necessary repairs or improvements to the

Property, the Premises or to the Building, or (3) the limitation, curtailment, rationing or restrictions on use of water, electricity, gas or any other form of energy serving the Property, the Premises or the Building. Landlord shall use reasonable efforts to remedy any interruption in the furnishing of such services.

(d) It is understood that Landlord does not represent, warrant or covenant that any of the services referred to above, or any other services which Landlord may supply, will be free from interruption. Tenant acknowledges that any one or more of such services may be suspended or reduced by reason of accident or repairs, alterations or improvements, by strikes or by any cause beyond the reasonable control of Landlord, or by orders, rules, ordinances or regulations of any federal, state, county or municipal authority or otherwise. Tenant agrees that any such interruption or suspension of services shall never be deemed an eviction of Tenant or disturbance to Tenant's use and possession of the Premises or any part thereof, or render Landlord liable to Tenant for damages or abatement of rent or relieve Tenant of performance of Tenant's obligations under this Lease. Landlord will use its reasonable efforts in the event of a strike to secure parties not involved in the labor dispute to provide minimum services for, waste removal, and Common Area janitorial services.

(e) Whenever heat generating machines or equipment or lighting other than building standard lights are used in the Premises by Tenant which affect the temperature otherwise maintained by the air conditioning system, Landlord shall have the right to install supplementary air conditioning units in the Premises, and the cost thereof, including the cost of installation and the cost of operation and maintenance thereof, shall be paid by Tenant to Landlord upon billing by Landlord. If Tenant installs lighting requiring power in excess of that required for normal desk-top office equipment or normal copying equipment as determined by Landlord, Tenant shall pay to Landlord, upon billing, the cost of such excess power together with the cost of installing any additional risers or other facilities that may be necessary to furnish such excess power to the Premises, as additional rent hereunder. In the event the water usage by Tenant exceeds the normal office use of water for such items as coffeemakers, sinks, dishwashers, refrigerators and icemakers, the cost of such excess water usage shall be paid by Tenant to Landlord upon billing by Landlord. Landlord shall have the right to cause any of the utilities servicing the Premises to be separately metered, in which event the cost of any such utility shall be paid by Tenant to Landlord upon billing by Landlord.

## 7. ALTERATIONS

(a) The Building, the Property and the Common Areas are at all times subject to the exclusive control and management of Landlord. Without limiting the generality of the foregoing, Landlord has the right to do and perform such acts in and to the Building in the use of Landlord's good business judgment that Landlord determines to be advisable for the more efficient and proper operation of the Building, including, but not limited to, the following: (i) obstruct or close off all or any part of the Property for the purpose of maintenance, repair or construction; (ii) use any part of the Common Area for merchandising, display, decorations, entertainment, and structures designed for retail selling or special features or promotional activities; (iii) change area, level, location, arrangement or use of Property or any part thereof; (iv) construct other buildings, structures or improvements on the Property and make alterations thereof, additions thereto, subtractions therefrom, or rearrangements thereof, build additional stories on any building, and construct additional buildings or facilities adjoining or proximate to the Property; and (v) construct multiple deck, elevated or underground parking facilities, and expand, reduce or alter same in any manner whatsoever.

(b) Tenant will not make or suffer to be made any alterations, additions or improvements to or of the Premises or any part thereof, whether structural, non-structural, mechanical, interior or otherwise, or attach any fixtures or equipment thereto, without first obtaining Landlord's written approval. Any alterations, additions or improvements (except the initial improvements covered by Exhibits "B" and "C") to the Premises consented to by Landlord shall be made by Tenant at Tenant's sole cost and expense, and any contractor or other person selected by Tenant to make the same shall be subject to Landlord's prior written approval. All alterations, additions, fixtures and improvements, including all improvements made pursuant to Exhibits "B" and "C", whether temporary or permanent in character, in or upon the Premises either by Tenant or Landlord, shall immediately become Landlord's property and, at the end of the term of this Lease, shall remain on the Premises without compensation to Tenant, or, at Landlord's option, be removed by Tenants sole cost with the premises restored to its original condition existing at the lease commencement date, subject only to normal wear and tear.

(c) Any alteration, addition, or improvement shall, when completed, be of such a character as not to lessen the value of the Premises or such improvements as may be then located thereon. Any alteration, addition, or improvement shall be made promptly and in a good workmanlike manner and in compliance with all applicable permits and authorizations and building and zoning laws and with all other laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, commissions, boards and offices. The costs of any such alterations, additions or improvements shall be timely and promptly paid by Tenant so that the Premises and any improvements at any time located thereon shall at all times be free of liens for services performed and labor and material supplied or claimed to have been supplied. Before any alteration, addition or improvement shall be commenced, Tenant shall pay the amount of any increase in premiums on insurance policies (provided for under this Lease) on account of endorsements to be made thereon covering the risk during the course of such alteration, addition or improvement.

## 8. LIENS

Tenant shall keep the Property, the Premises and the Building free from any mechanics' and/or materialmen's liens or other liens arising out of any work performed, materials furnished or obligations incurred by Tenant. Tenant shall notify Landlord in writing at least five (5) business days before any work or activity is to commence on the Premises which may give rise to such liens and Landlord shall have the right to post and keep posted on the Premises any notices that may be provided by law or which Landlord may deem to be proper for the protection of Landlord, the Property, the Premises and the Building from such liens.

## 9. REPAIRS

Tenant shall, at all times during the term hereof and at Tenant's sole cost and expense, keep the Premises and every part thereof in good order, condition and repair, ordinary wear and tear, damage thereto by fire, earthquake, act of God or the elements excepted, including, without limitation, all plumbing and sewer lines to the point where they intersect with common lines, fixtures, interior walls and interior surfaces of exterior walls, ceilings, windows, doors and plate glass located within or upon the Premises. All repairs made by Tenant shall be at least of the same quality, design and class as that of the original work. Tenant shall at the end of the term hereof surrender to Landlord the Premises and all alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear and damage by fire, earthquake, act of God or the elements excepted. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, except as may be specified in Exhibits "B" and "C". If Tenant refuses or neglects to make repairs and/or to maintain the Premises or any part thereof in a manner reasonably satisfactory to Landlord, Landlord shall have the right, but not the obligation, upon giving Tenant five (5) days (or in the case of emergency, twenty-four hours) written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Tenant. Such work shall be paid for by Tenant, as additional rent under this Lease, promptly upon receipt of a bill for such work.

## 10. DESTRUCTION OR DAMAGE

(c) If the Property, the Premises or the Building are damaged by fire, earthquake, act of God or the elements, Tenant shall immediately notify Landlord of same. Landlord shall forthwith repair the same, subject to the provisions of this section hereinafter set forth, and provided such repairs can, in Landlord's opinion, be made within ninety (90) days after the date of said fire or other casualty and this Lease shall remain in full force and effect. If there shall be such damage to the Premises and such damage is not the result of the negligence or willful misconduct of Tenant or Tenant's employees or invites, then abatement of rental shall be allowed Tenant for such part of the Premises as shall be rendered unusable by Tenant in the conduct of its business during the time such part is so unusable.

(d) If such repairs cannot, in Landlord's opinion, be made within ninety (90) days, Landlord may, at its option, upon written notice to Tenant within thirty (30) days after the date of such fire or other casualty, repair or restore such damage, this Lease continuing in full force and effect, but the rent to be partially abated as hereinabove in this section provided.

(e) If such repairs cannot be made within ninety (90) days following such casualty and Landlord elects not to make such repairs, then either Landlord or Tenant (provided the damage affects the Premises or Common Areas necessary to Tenant's

occupancy) shall have the right, exercisable by written notice to the other given not less than thirty-one (31) nor more than ninety (90) days after the date of such fire or other casualty, to terminate this Lease as of the date of such fire or other casualty.

(f) If the Premises are to be repaired under this Article 10, Landlord shall repair at its cost any injury or damage to the Building itself and building standard improvements in the Premises, and Tenant shall, at Tenant's sole cost and expense, be responsible for repairing and restoring any other tenant improvement and or replacing any equipment and fixtures located in the Premises.

(g) A total destruction of the Building shall automatically terminate this Lease.

## 11. SUBROGATION

(a) Each party hereto waives any and every claim which arises or may arise in its favor and against the other hereto during the term of this Lease for any and all loss of, or damage to, any of its property located within or upon, constituting a part of, the Property, the Premises or the Building, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under said insurance policies.

(b) Landlord and Tenant shall each, prior to or immediately after the execution of this Lease, procure from each of the insurers under all policies of fire, theft, public liability, workmen's compensation and other insurance now or hereafter existing during the term hereof and purchased by either of them insuring or covering the Property, the Building, the Premises or any portion thereof or operations therein, a waiver of all rights of subrogation which the insurer might otherwise, if at all, have against the other.

## 12. INDEMNIFICATION

Tenant hereby waives all claims against Landlord, its agents, employees and contractors for damage to any property or injury to or death of any person in, upon or about the Property, the Premises, the Building, the Common Area or any part thereof, arising at any time and from any cause other than solely by reason of the negligence of Landlord, its agents, employees or contractors, and Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, liabilities, damages and costs incurred by Landlord (i) arising from the use of the Property, the Premises, the Building, the Common Area or any part thereof by Tenant, or (ii) which may arise from the conduct of Tenant's business or from any activity, work or things which may be permitted or suffered by Tenant in, on or about the Premises, or (iii) which may arise from any breach or default in the performance of any obligation on Tenant's part under this Lease, or (iv) which may arise from any negligence of Tenant or any of Tenant's agents, representatives, customers, employees or invitees, or (v) which may arise from any injury or loss incurred as a result of Landlord, Landlord's agents, representatives or designees entering the Premises under an emergency circumstance, such as fire or similar event, **EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OF ANY INDEMNITEE.** The foregoing indemnity obligation of Tenant shall include reasonable attorneys' fees, investigation costs and all other reasonable costs and expenses incurred by Landlord from the first notice that any claim or demand is to be made or may be made. The provisions of this Article 12 shall survive the termination or expiration of the Lease with respect to any damage, injury or death occurring prior to such termination or expiration.

### 13. COMPLIANCE WITH LEGAL REQUIREMENTS

Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, including, without limitation, the Americans with Disabilities Act (the "ADA"), and specifically "Title III: The Provisions Governing Public Accommodations and Services Operated by Private Entities" of the ADA, and all amendments thereto and any standards and regulations issued thereunder, but only to the extent applicable to and affecting the Building, with respect to those portions of the Building and the Premises for which Tenant is responsible to maintain and repair under the terms and provisions of this Lease, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, as well as the provisions of all recorded documents affecting the Premises, insofar as any thereof relate to or affect the condition, use or occupancy of the Premises, excluding requirements of structural changes not related to or affected by improvements made by or for Tenant or Tenant's acts. Any penalty or damage assessed against Landlord by reason of the failure of Tenant to comply with this paragraph shall be paid by Tenant, and any such failure shall be rectified by Tenant at its own expense. If Tenant fails to undertake a diligent effort to comply with the provisions of this Article 13 within the time period specified in any citation or other notice, or within thirty (30) days after written notice by Landlord of the existence of such failure to comply, whichever period of time is shorter, Landlord, at its option, may remedy the same at Tenant's expense and may require Tenant to pay the cost thereof upon demand; provided, however, that Landlord shall have no obligation or responsibility to remedy such failure to comply.

### 14. INSURANCE

(h) Tenant, at its sole cost and expense, shall, during the term of the Lease, cause all improvements at any time located in the Premises (other than the building standard improvements) and all equipment, machinery, personality, trade fixtures, alterations and fixtures from time to time used or intended to be used in connection with the operation and maintenance of the Premises, to be insured for the mutual benefit of Landlord and Tenant against loss or damage by fire, windstorm, explosion, aircraft, vehicles, smoke, riot or vandalism and against loss or damage by other risks now or hereafter included in the standard form of all-risk insurance policy, in an amount equal to the full insurable value and replacement cost thereof. All proceeds from such insurance shall be used for the repair or replacement of such improvements, equipment, personality and fixtures.

(i) Tenant, at Tenant's sole cost and expense, shall also obtain and keep in force during the term of this Lease the following insurance coverages naming Landlord as additional insured.

(i) Worker's Compensation insurance, insuring Tenant from all claims for personal injury, disease and/or death in compliance with all State and/or Federal law which may be applicable and in the amounts required by such laws (which shall include a waiver of subrogation endorsement in favor of Landlord).

(ii) Comprehensive general liability insurance and personal injury liability insurance, insuring Tenant against liability for injury to persons or damage to property occurring in or about the Premises, the Building or the Property or arising out of the ownership, maintenance, use or occupancy thereof, including all coverages normally provided by the "Extended Liability Endorsement." Such policies shall specifically name Landlord as additional insured and shall include a cross-liability endorsement. Landlord may, at its discretion, request evidence of products insurance. The minimum limits of liability acceptable are: (A) \$1,000,000 combined single limit per occurrence for bodily injury and property damage, or (B) \$1,000,000 bodily injury and \$500,000 property damage.

(iii) Plate Glass insurance, insuring Tenant from all loss, cost, damage or expense arising out of the plate glass in the Premises. Tenant shall assume all responsibility for all plate glass on the Premises; provided, however, Tenant may elect to self-insure this exposure.

All such coverages shall be primary and non-contributory over any insurance Landlord may elect to provide on Landlord's behalf. At the commencement of the term of this Lease, and on or before ten (10) days prior to expiration or renewal of such insurance coverage, Tenant shall deliver to Landlord an original certificate of such insurance from the insurer providing Landlord a minimum of thirty (30) days prior written notice of cancellation or other material modifications or reduction. All

policies of insurance required to be carried by Tenant under this Article 14 shall be in form satisfactory to Landlord and shall be issued by responsible insurance companies which are licensed to do business in the State of Idaho and have been approved in writing by Landlord. If Tenant shall fail to procure and maintain the insurance required under this Lease, Landlord may, but shall not be required to, procure and maintain such insurance, and any amounts paid by Landlord for such insurance shall be additional rent hereunder, which shall be due and payable by Tenant on the next succeeding date on which a monthly rental installment is due hereunder.

## 15. ASSIGNMENT AND SUBLETTING

(a) Tenant shall not voluntarily or by action of law sublet, assign, mortgage or otherwise transfer or encumber all or any part of this Lease or any interest therein or the Premises or any portion thereof, without the prior written consent of Landlord. Any attempted assignment, subletting, mortgage, transfer or encumbrance by Tenant in violation of the terms and covenants of this Article 15 shall be void and shall constitute a breach of this Lease. In the event Tenant should desire to assign this Lease in whole or in part or sublet the Premises or any part thereof, Tenant shall give Landlord written notice of such desire at least ninety (90) days in advance of the date on which Tenant desires to make such assignment or sublease. Landlord shall then have a period of thirty (30) days following receipt of such notice within which to notify Tenant in writing that Landlord elects either (i) to withhold consent to such proposed assignment, subletting or other transfer, (ii) to terminate this Lease as to the space so affected as of the date so specified by Tenant, in which event Tenant will be relieved of all further obligations hereunder as to such space, or (iii) to permit Tenant to assign or sublet such space, subject, however, to prior written approval of the proposed assignee or sub-tenant by Landlord. In determining whether to consent to such assignment, subletting or other transfer, Landlord may consider, among other things, the use of the Premises by the proposed assignee or sub-tenant and the financial condition of the proposed assignee or sub-tenant. If Landlord should fail to notify Tenant in writing of such election within said thirty (30) day period, Landlord shall be deemed to have waived option (ii) above, but written approval by Landlord of the proposed assignee or sub-tenant shall nevertheless be required.

(b) In the event that Tenant is a corporation, Tenant represents that the ownership and power to vote a fifty-one percent (51%) majority of its outstanding capital stock belongs to and is vested in the officer or officers executing this Lease or members of his or their immediate family. If there shall occur any change in the ownership of and/or power to vote such majority of the outstanding capital stock of Tenant without the prior written consent of Landlord, then in addition to any and all other remedies herein provided, Landlord shall have the option to terminate this Lease upon at least thirty (30) days' notice to Tenant. In the event that Tenant is a partnership, Tenant represents that the ownership and power to vote a fifty-one percent (51%) majority of its partnership interests belongs to and is vested in the partner or partners executing this Lease or members of his or their immediate family. If there shall occur any change in the ownership of and/or power to vote such majority of the partnership interests of Tenant without the prior written consent of Landlord, then in addition to any and all other remedies herein provided, Landlord shall have the option to terminate this Lease upon at least thirty (30) days' notice to Tenant.

(c) Failure by Landlord to approve a proposed assignee or sub-tenant shall not cause a termination of this Lease. Any other rent or other consideration realized by Tenant under any such sublease or assignment in excess of the rental payable hereunder, after amortization of the reasonable subletting and assignment costs, shall be divided and paid ninety percent (90%) to Landlord and ten percent (10%) to Tenant. Regardless of Landlord's consent, no assignment, subletting or other transfer by Tenant shall relieve or release Tenant of or from any of Tenant's obligations, or alter the primary liability of Tenant to pay the rent and to perform all other obligations to be performed by Tenant, under this Lease. In the event Landlord shall consent to a sublease, assignment or other transfer, Tenant shall pay all costs and expenses of Landlord incurred in connection with such consent, including, without limitation, reasonable attorneys' fees and expenses. Consent by Landlord to one assignment, sublease or other transfer shall not be deemed a waiver of Landlord's right to reject future assignments, subleases or other transfers. Any assignee, sublessee or transferee of Tenant's interest in this Lease shall assume in writing all of Tenant's obligations hereunder pursuant to an assumption agreement in form and substance satisfactory to Landlord.

## 16. RULES & REGULATIONS

Tenant shall faithfully observe and comply with the Rules and Regulations annexed to this Lease and, after notice thereof, all reasonable amendments and modifications thereof and additions thereto from time to time promulgated in writing by

Landlord. Tenant's failure to keep and observe such Rules and Regulations shall constitute a default of this Lease. Notice of such amended or additional rules and regulations shall be given to Tenant, and Tenant agrees thereupon to comply with and observe all rules and regulations and amendments and additions thereto. Landlord shall not be responsible to Tenant for the non-performance by any other tenant or occupant of the Building or the Property of any of said Rules and Regulations.

#### 17. ENTRY BY LANDLORD

Landlord or its agents, representatives and designees may enter the Premises at reasonable hours to (a) examine and inspect the same, (b) exhibit the same to prospective purchasers, lenders or tenants and perform examinations and tests relating thereto, (c) determine whether Tenant is complying with all of Tenant's obligations hereunder, (d) supply any other service to be provided by Landlord to Tenant hereunder, (e) post notices of no responsibility, and (f) make repairs, additions or alterations required by Landlord under the terms hereof or which Landlord deems are necessary and proper for the safety, improvement or preservation thereof, or repairs to any adjoining space or utility portion of the Building, provided, however, that all such work shall be done as promptly as possible so as to cause as little interference to Tenant as reasonably possible. Tenant hereby waives any claim for damages for any injury or inconvenience or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry. Landlord shall at all times have and retain a key with which to unlock all of the doors in, on or about the Premises (excluding Tenant's vaults, safes and similar areas designated in writing by Tenant in advance); and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency in order to obtain entry to the Premises, and any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a breach of peace, a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises, or any portion thereof. During the ninety (90) days prior to the expiration date of this Lease, Landlord may place upon the Premises "For Lease" or similar signs which Tenant shall permit to be displayed in the Premises.

#### 18. EVENTS OF DEFAULT

The occurrence of any one or more of the following events ("Events of Default") shall constitute a breach of this Lease by Tenant: (a) if Tenant shall fail to pay any rental when and as the same becomes due and payable, or (b) if Tenant shall fail to pay any other sum when and as the same becomes due and payable and such failure shall continue for more than ten (10) days; or (c) if Tenant shall fail to perform or observe any other term, provision, covenant or condition of this Lease other than the payment of monetary sums and such failure shall continue for more than thirty (30) days after written notice thereof from Landlord; or (d) if Tenant shall make a general assignment for the benefit of creditors, or shall admit in writing its insolvency or inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file any answer admitting or shall fail timely to contest the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment or any trustee, receiver or liquidator of Tenant or any material part of its properties; or (e) if within thirty (30) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within thirty (30) days after the appointment of any trustee, receiver or liquidator of Tenant or of any material part of Tenant's properties, such appointment shall not have been vacated; or (f) vacation or abandonment of the Premises by Tenant for a continuous period in excess of fifteen business days or dispossession by process of law or otherwise; (g) if this Lease or any estate of Tenant hereunder shall be levied upon under any attachment or execution and such attachment or execution is not vacated with ten (10) days; (h) if any mechanic's or materialmen's lien is filed against any portion of the Building, the Property or the Premises and such lien is not removed within thirty (30) days thereafter.

#### 19. REMEDIES UPON DEFAULT

(a) Upon the occurrence of any Event of Default specified in Article 18 hereof, Landlord shall have the right and option at any time thereafter to pursue any one or more of the following remedies without any notice or demand whatsoever both of which are hereby waived by Tenant:

(i) Terminate this Lease in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or rent in arrears, enter upon and take possession and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim of damages thereof. Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise, including the loss of all rental then remaining unpaid under the terms of this Lease;

(ii) Without terminating this Lease, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim for damages thereof, and if Landlord so elects, relet the Premises on such terms as Landlord shall deem advisable and receive the rent thereof. Tenant agrees to pay to Landlord on demand any deficiency in rental that may arise by reason of such reletting;

(iii) Without terminating this Lease, enter upon the Premises without being liable for prosecution or any claim for damages thereof, and do whatever Tenant is obligated to do under the terms of this Lease, and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action;

(iv) At its option, declare all rents and other amounts due hereunder for the entire remaining term of this Lease and any other indebtedness immediately due and payable without regard to whether or not possession shall have been surrendered to or taken by Landlord, and Landlord may immediately commence action for the recovery of a judgment for such amounts;

(v) Demand that payments for any rents, whether past due or to become due in the future, be made by certified check, cashier's check or money order; and

(vi) Change or modify the lock(s) and other security devices at or on the Premises, with or without terminating this Lease, and pursue, at Landlord's option, one or more remedies pursuant to this Lease. Landlord shall not be obligated to provide another key or other access to Tenant or allow Tenant to regain entry to the Premises, regardless of hour, including Tenant's regular business hours, unless and until Tenant pays in full to Landlord all rent which is delinquent. Tenant agrees that Landlord shall not be liable for any damages resulting to the Tenant from the lockout. At such time that Landlord changes, alters or modifies the lock or other security device, Landlord shall post a "Notice of Change of Locks" on the front of the Premises. Such Notice shall state the following:

(A) That Tenant's rentals are delinquent; and, therefore, under authority of Article 19 (a)(vi) of Tenant's Lease, the management has exercised its contractual right to change, alter or modify Tenant's door lock(s) or other security device(s);

(B) That the Notice has been posted on the Tenant's front door by a representative of Landlord and that Tenant should make arrangements to pay all delinquent rent and cure all other Events of Default under Tenant's Lease when Tenant picks up the key; and

(C) That tampering with or changing the lock(s) or other security device(s) without Landlord's written permission is a criminal offense.

(b) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease, unless a written notice of such intention is given to Tenant. Notwithstanding any such reletting or re-entry or taking possession, Landlord may at any time thereafter elect to terminate this Lease for a previous Event of Default. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or provided by law, nor shall pursuit of any of the foregoing remedies constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions, conditions and covenants herein contained. Neither failure by Landlord to exercise, nor delay by Landlord in exercising, any right, power or remedy upon any Event of Default, nor Landlord's acceptance of rent or any portion thereof following an Event of Default hereunder, shall be construed as or constitute Landlord's waiver of such Event of Default or any other Event of Default or a waiver of the right to exercise any right, power or remedy at a later date. No single or partial exercise by Landlord of any right, power or remedy

hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No waiver by Landlord of any violation or breach of any of the terms, provisions, conditions and covenants herein contained shall be effective unless the same shall be in writing and signed by Landlord and then such waiver shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. The loss or damage that Landlord may suffer by reason of termination of this Lease or the deficiency from any reletting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken by Landlord following possession. Should Landlord at any time terminate this Lease for any default, in addition to any other remedy Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of such default, including the cost of recovering the Premises and the loss of the rental then remaining unpaid.

## 20. CONTINUATION AFTER DEFAULT

Even though Tenant has breached this Lease and abandoned the Premises, this Lease shall continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all of Landlord's rights and remedies under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of Landlord to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. If any fixture, equipment, improvement, installation, alteration or appurtenance which, as herein provided, shall be required to be removed from the Building by Tenant and shall not be removed by Tenant from the Building within the time specified therefore, then Landlord (in addition to all other rights and remedies to which Landlord may be entitled at any time) may, at Landlord's election by written notice to Tenant, deem that such fixture, equipment, improvement, installation, alteration or appurtenance has been abandoned by Tenant to Landlord, or Landlord may remove the same and restore the Premises to its original condition at the expense of Tenant and Tenant shall reimburse Landlord for such expense as additional rent within ten (10) days after written notice to Tenant of the amount of such expense.

## 21. OTHER RELIEF

The remedies provided for in this Lease are in addition to any other remedies available to Landlord by law or in equity, by statute or otherwise.

## 22. LANDLORD'S RIGHT TO CURE DEFAULTS

All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at Tenant's sole cost and expense and without any abatement of rental. If Tenant shall fail to pay any sum of money, other than rental, required to be paid by Tenant hereunder or shall fail to perform any other act on Tenant's part to be performed hereunder and such failure shall continue for thirty (30) days after notice thereof by Landlord, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, including, without limitation, reasonable attorneys' fees and expenses, shall be deemed additional rent hereunder and shall be payable by Tenant to Landlord on demand, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rental.

## 23. ATTORNEY'S FEES

In the event Landlord places the enforcement of this Lease, or any part thereof, or the collection of any rental due or to become due hereunder, or recovery of the possession of the Premises in the hands of an attorney, or brings any action under this Lease, Landlord shall be entitled to its reasonable attorneys' fees, expenses and court costs incurred in connection therewith, and any such amounts shall constitute additional rental under this Lease and shall be payable by Tenant to Landlord upon demand from Landlord.

## 24. EMINENT DOMAIN

If all or any part of the Premises shall be taken or conveyed as a result of the exercise of the power of eminent domain, this Lease shall terminate as to the part so taken as of the date of taking, and, in the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Premises by written notice to the other within thirty (30) days after such date; provided, however, a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Premises taken or conveyed shall be of such extent and nature as to substantially and materially handicap, impede or impair Tenant's use of the balance of the Premises. In the event of any taking, Landlord shall be entitled to any and all compensation, damages, income, rent awards or any interest therein whatsoever which may be paid or made in connection therewith, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise; provided, however, Tenant shall be entitled to any and all compensation, damages, income, rent or awards paid for or on account of Tenant's moving expenses, trade fixtures, equipment and any leasehold improvements in the Premises, the cost of which was borne by Tenant, to the extent of the then unamortized value of such improvements for the remaining term of this Lease. In the event of a taking of this Lease, the monthly rental herein shall be apportioned as of the date of such taking or conveyance so that thereafter the rent to be paid by Tenant shall be in the ratio that the area of the portion of the Premises not so taken or conveyed bears to the total area of the Premises prior to such taking.

## 25. SUBORDINATION

(a) This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage deed of trust, or any other hypothecation for security now or hereafter placed upon the Building or any portion thereof and to any and all advances made on the security thereof and to all renewals, amendments, modifications, consolidations, replacements and extensions thereof. The aforesaid provision shall be self-operative and no further instrument shall be required to evidence such subordination. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default under this Lease and so long as Tenant shall pay the rent and observe and perform all of the terms, covenants, obligations, conditions and provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien (or interest) of its mortgage, deed of trust or ground lease, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof, and Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien (or interest) of any mortgage, deed of trust or ground lease, as the case may be, and failing to do so within ten (10) days after demand, Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place and stead, to do so.

(b) If any mortgagee of the Property requires any modification of the terms and provisions of this Lease as a condition to such financing as Landlord may desire, then Landlord shall have the right to cancel this Lease if Tenant fails or refuses to approve and execute such modification(s) within thirty (30) days after Landlord's request therefor, provided said request is made prior to the commencement date of this Lease. Upon such cancellation by Landlord, this Lease shall be null and void and neither party shall have any liability either for damages or otherwise to the other by reason of such cancellation, other than Tenant's liability for any unpaid rental under this Lease. In no event, however, shall Tenant be required to agree, and Landlord shall not have any right of cancellation for Tenant's refusal to agree, to any modification of the provisions of this Lease relating to the amount of rent or other charges reserved herein, the size and/or location of the Premises, the duration of, and/or commencement date of, the term of this Lease, or the improvements to be made by Landlord to the Premises prior to delivery of possession.

## 26. NO MERGER

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not constitute a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to Landlord of any or all such subleases or subtenancies.

## 27. SALE

In the event the original Landlord hereunder, or any successor owner of the Building and/or the Property, shall sell or convey the Building and/or the Property, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease accruing thereafter shall terminate, and thereupon all such liabilities and obligations shall be binding upon the new owner. Tenant agrees to attorn to such new owner and be bound under all terms, covenants and conditions of this Lease for the balance of the term of this Lease.

#### 28. ESTOPPEL CERTIFICATE

At any time and from time to time, within ten (10) days after request therefor by Landlord or any mortgagee, or in the event that upon any sale, assignment or hypothecation of the Premises and/or the Property by Landlord an estoppel certificate shall be required from Tenant, Tenant shall execute, acknowledge and deliver in recordable form to Landlord a certificate (in form and substance satisfactory to Landlord) certifying, among other things, (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the nature of each modification), (b) the date, if any, to which rental and other sums payable hereunder have been paid, (c) that no notice has been received by Tenant of any default which has not been cured, except as to defaults specified in said certificate, and (d) such other matters as may be reasonably requested by Landlord, mortgagee or purchaser. Any such certificate may be relied upon by any prospective purchaser, mortgagee or beneficiary under any deed of trust of the Building or any part thereof. The failure of Tenant so to deliver such certificate within the time specified above shall be deemed to be a material breach of this Lease and shall entitle Landlord without notice to terminate this Lease.

#### 29. NO LIGHT, AIR OR VIEW EASEMENT

Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Building and/or the Property shall in no way affect this Lease, create any rights, remedies or damages with respect to Tenant or its employees, invitees or agents, or impose any liability on Landlord whatsoever.

#### 30. HOLDING OVER

At the expiration or earlier termination of this Lease, Tenant shall surrender (i) the Premises to Landlord in the same condition as when tendered by Landlord, reasonable wear and tear and insured casualty excepted, and in broom clean condition, and (ii) all keys to the Premises, the Building and the Property. Tenant shall promptly repair any damage to the Premises caused by the removal of any furniture, trade fixtures or other personal property placed in the Premises. If Tenant holds possession of the Premises after expiration of the term of this Lease, at the election of Landlord, Tenant shall become a tenant from month to month upon the terms herein specified but at a monthly rental equivalent to 300% of the then prevailing monthly rental and other charges paid by Tenant at the expiration of the term of this Lease, pursuant to all of the provisions of this Lease, said rent shall be payable in advance on or before the first day of each month; provided, that the exercise of Landlord's rights under this clause shall not be interpreted as a grant of permission to Tenant to continue in possession. In the event Landlord elects to treat Tenant as a tenant from month to month, each party shall give the other notice at least one (1) month prior to the date of termination of such monthly tenancy of its intention to terminate such tenancy. Nothing herein contained shall be construed to grant Tenant the right to hold over beyond the expiration of the term of this Lease.

#### 31. CONDUCT OF BUSINESS/ABANDONMENT

Tenant covenants and agrees that, continuously and uninterruptedly from and after Tenant's initial opening for business, Tenant shall operate and conduct within the Premises the business Tenant is permitted to operate and conduct under the provisions of this Lease, except while the Premises are untenable by reason of fire or other casualty. Tenant agrees to conduct Tenant's business at all times in a first class manner consistent with reputable business standards and practices. If Tenant shall abandon or surrender the Premises, or be dispossessed by process of law or otherwise, any personal property belonging to Tenant and left on the Premises shall be deemed to be abandoned, at the option of Landlord, except such property as may be mortgaged to Landlord.

### 32. SECURITY DEPOSIT

Tenant has deposited with Landlord the sum of One Thousand and 00 / Dollars (\$1000.00) specified in the Basic Lease Information (the "Security Deposit"). The Security Deposit shall be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants, obligations and conditions and provisions of this Lease to be performed or observed by Tenant. Tenant shall not be entitled to interest on the Security Deposit even though Landlord may invest the Security Deposit to earn interest thereon. In the event Tenant fails to perform or observe any of the provision of this Lease to be performed or observed by Tenant, then, at the option of Landlord and without notice to Tenant, Landlord may (but shall not be obligated to do so) apply or retain all of the Security Deposit, or so much thereof as may be necessary to remedy such default or to repair damages to the Premises caused by Tenant, including, without limitation, Landlord's reasonable attorneys' fees and expenses. In the event Landlord applies all or any portion of the Security Deposit to remedy such default or to repair damages to the Premises caused by the Tenant, Tenant shall pay to Landlord, within thirty (30) days after written demand for such payment by Landlord, in cash all monies necessary to restore the Security Deposit up to the original amount. Provided Tenant is not in default under the terms and provisions of this Lease, any portions of the Security Deposit remaining upon termination of this lease shall be returned to Tenant subject to offsets as provided above.

### 33. WAIVER

The written waiver by Landlord of any agreement, condition or provision herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision herein contained, nor shall any custom or practice which may grow or become established between the parties in the administration of the terms of this Lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. The subsequent acceptance of rental hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rental.

### 34. NOTICES

All notices and demands which may be or are required or permitted to be given by either party to the other hereunder shall be in writing. All notices and demands by the Landlord to the Tenant shall be deemed received when personally delivered or upon deposit in the United States Mail, postage prepaid, certified with return receipt requested, addressed to the Tenant at the Premises, or to such other place as Tenant may from time to time designate in a notice to the Landlord. All notices and demands by the Tenant to the Landlord shall be personally delivered or sent by United States Mail, postage prepaid, certified with return requested, addressed to the Landlord P. O. Box 2315, Ketchum, ID 83340, Phone (208) 726-3841, Fax (208) 726-8234 or to such other person or place as the Landlord may from time to time designate in a notice to the Tenant. Tenant hereby appoints as its agent to receive the service of all dispossessory or distraint proceedings and notices thereunder the person in charge of or occupying the Premises at the time, and, if no person shall be in charge of or occupying the same, then such service may be made by attaching the same on the main entrance of the Premises.

### 35. CORPORATE OR PARTNERSHIP AUTHORITY

If Tenant signs as a corporation or partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that (a) Tenant is a duly authorized and validly existing corporation or partnership, as the case may be, (b) Tenant has and is qualified to do business in Texas, (c) the corporation or partnership, as the case may be, has full right, power and authority to execute and deliver this Lease and to carry out the obligations of Tenant under this Lease, and (d) each person executing this Lease on behalf of the corporation or partnership is authorized to do so.

### 36. GUARANTEE OF LEASE

Tenant guarantees, upon execution of this Lease, to occupy the Premises specified herein. Any failure to occupy the Premises does not release the Tenant from the obligation of paying rent or any other provisions set forth herein.

### 37. BASIC LEASE INFORMATION/EXHIBITS/RIDERS

The definitions and basic provisions set forth in the Basic Lease Information and the exhibits, riders and addenda, if any, specified in the Basic Lease Information and attached to this Lease, are incorporated herein by reference and made a part hereof for all purposes.

### 38. SEVERABILITY

If any term or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and shall be enforceable to the extent permitted by law.

### 39. LANDLORD'S LIEN

IN ADDITION TO THE STATUTORY LANDLORD'S LIEN, LANDLORD SHALL HAVE, AT ALL TIMES, A VALID SECURITY INTEREST TO SECURE PAYMENT OF ALL RENTALS AND OTHER SUMS OF MONEY BECOMING DUE HEREUNDER FROM TENANT, AND TO SECURE PAYMENT OF ANY DAMAGES OR LOSS WHICH LANDLORD MAY SUFFER BY REASON OF THE BREACH BY TENANT OF ANY TERM, PROVISION, COVENANT, AGREEMENT OR CONDITION CONTAINED HEREIN, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE, IMPROVEMENTS AND OTHER PERSONAL PROPERTY OF TENANT PRESENTLY OR WHICH MAY HEREAFTER BE SITUATED ON THE PREMISES AND ALL PROCEEDS THEREFROM, AND SUCH PROPERTY SHALL NOT BE REMOVED THEREFROM WITHOUT THE CONSENT OF LANDLORD UNTIL ALL RENT AND ARREARS AS WELL AS ANY AND ALL OTHER SUMS OF MONEY THEN DUE OR TO BECOME DUE TO LANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID AND DISCHARGED AND ALL OF THE TERMS, PROVISIONS, COVENANTS, AGREEMENTS AND CONDITIONS THEREOF HAVE BEEN COMPLIED WITH AND PERFORMED BY TENANT. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT BY TENANT, OR IF LANDLORD DEEMS IN ITS SOLE DISCRETION THAT TENANT'S ABILITY TO PERFORM UNDER THIS LEASE IN THE FUTURE IS IMPAIRED OR UNCERTAIN, LANDLORD MAY, IN ADDITION TO ANY OTHER REMEDIES PROVIDED HEREIN, ENTER UPON THE PREMISES AND TAKE POSSESSION OF ANY AND ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE, IMPROVEMENTS AND OTHER PERSONAL PROPERTY OF TENANT SITUATED ON THE PREMISES, WITHOUT LIABILITY FOR TRESPASS OR CONVERSION, AND SELL THE SAME AT PUBLIC OR PRIVATE SALE, WITH OR WITHOUT HAVING SUCH PROPERTY AT THE SALE, AFTER GIVING TENANT REASONABLE NOTICE OF THE TIME AND PLACE OF ANY PUBLIC SALE OR OF THE TIME AFTER WHICH ANY PRIVATE SALE IS TO BE MADE, AT WHICH SALE THE LANDLORD OR ITS ASSIGNEES MAY PURCHASE THE SAME UNLESS OTHERWISE PROHIBITED BY LAW. UNLESS OTHERWISE PROVIDED BY LAW, AND WITHOUT INTENDING TO EXCLUDE ANY OTHER MANNER OF GIVING TENANT REASONABLE NOTICE, THE REQUIREMENT OF REASONABLE NOTICE IN THE PRECEDING SENTENCE SHALL BE MET IF SUCH NOTICE IS GIVEN IN THE MANNER PRESCRIBED IN ARTICLE 34 OF THIS LEASE AT LEAST FIVE (5) DAYS BEFORE THE TIME OF SALE. THE PROCEEDS FROM ANY SUCH DISPOSITION, LESS ANY AND ALL EXPENSES CONNECTED WITH THE TAKING OF POSSESSION, HOLDING AND SELLING OF THE PROPERTY (INCLUDING REASONABLE ATTORNEYS' FEES AND OTHER EXPENSES), SHALL BE APPLIED AS A CREDIT AGAINST THE INDEBTEDNESS SECURED BY THE SECURITY INTEREST OTHERWISE REQUIRED BY LAW; AND THE TENANT SHALL PAY ANY DEFICIENCIES FORTHWITH. UPON REQUEST BY LANDLORD, TENANT AGREES TO EXECUTE AND DELIVER TO LANDLORD A FINANCING STATEMENT IN FORM SUFFICIENT TO PERFECT THE SECURITY INTEREST OF LANDLORD IN THE AFOREMENTIONED PROPERTY AND PROCEEDS THEREOF UNDER THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE IN FORCE IN THE STATE OF IDAHO. THE STATUTORY LIEN FOR RENT IS NOT HEREBY WAIVED, THE SECURITY INTEREST HEREIN GRANTED BEING IN ADDITION AND SUPPLEMENTARY THERETO.

#### 40. FORCE MAJEURE

Whenever a period of time is herein prescribed for action to be taken by Landlord, the Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, Acts of God, inclement weather, shortages of labor or materials, loss of utility service, inability to procure materials, lockouts, insurrection, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are not the fault of or beyond the control of Landlord.

#### 41. HAZARDOUS SUBSTANCES

Tenant, at its sole cost and expense, shall fully, diligently and promptly comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations of all federal, state or local authorities (collectively, "Applicable Laws") to ensure that the Premises are not contaminated with any substance or material currently identified by any Applicable Laws to be toxic or hazardous, including without limitation, any asbestos, pcb, radioactive substance, methane, volatile hydrocarbons, industrial solvents, or any other material or substance which has in the past or could at any time in the future cause or constitute a health, safety, or environmental hazard to any person or property (collectively, "Hazardous Substance"). Tenant will not cause to occur any discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solids, liquid or gaseous products or Hazardous Substance (a "Spill") at, under or within the Premises, the Building or the Property or otherwise violate any Applicable Laws. Tenant will not be involved in operations which could lead to the imposition of any liability or lien on any person or any lessor of the Premises under any Applicable Laws. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance, or a condition involving or resulting from same, has come to be located in, on, under or about the Premises, the Building or the Property, Tenant shall immediately give written notice of such fact to Landlord. Tenant shall also immediately give Landlord a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action or proceeding given to, or received from, any governmental authority or private party, or persons entering or occupying the Premises, concerning the presence, spill, release, discharge of, or exposure to, any Hazardous Substance or contamination in, on, or about the Premises, the Building or the Property. Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands that may in any manner arise from or be imposed because of the failure of Tenant to comply with this Article 43 (the "Costs") and Tenant shall indemnify, protect, hold harmless and defend Landlord from and against the Costs.

#### 42. NO PERSONAL LIABILITY OF LANDLORD

"Landlord", as used in this Lease insofar as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners of the Premises at the time in question. In the event of any transfer of title, the Landlord named herein shall automatically be released and discharged from and after the date of such transfer or conveyance of and from all personal liability with respect to the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed. Notwithstanding the foregoing, Tenant shall look solely to the interest and estate of Landlord in the Property of which the Premises are a part for the satisfaction of Tenant's remedies for collection of a judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by Landlord of any of the terms, covenants and conditions of this Lease to be observed and/or performed by Landlord, and no other property or assets of Landlord, its partners, shareholders or agents shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's damages or remedies.

#### 43. MISCELLANEOUS

The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. If there be more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several. The agreements, conditions and provisions herein contained shall, subject to Article 15, apply to and bind the heirs, executors, administrator, successors and permitted assigns of the parties hereto. Tenant shall not, without the written consent of Landlord, use the name of the Building and/or the Property for any purpose other than as the address of the business to be conducted by Tenant in the Premises. All amounts of money payable by Tenant to Landlord hereunder, if not paid when due, shall bear interest from the due date until paid at the rate of 18% per annum, unless otherwise provided herein. This Lease shall be governed by and construed in accordance with the

laws of the State of Idaho. As a material part of the consideration for the agreements on the part of the Landlord contained herein, Tenant agrees for itself and its employees, agents, legal representatives, successors and assigns, that the terms and conditions of Tenant's leasing of space in the Property shall be maintained in confidence and not disclosed to any third persons (other than Tenant's accountants, attorneys and others within Tenant's organization with a similar need to know) including other current (or prospective) tenants of the Property and real estate agents.

44. COMPLETE AGREEMENT

THIS LEASE AND THE SCHEDULES, EXHIBITS AND RIDERS ATTACHED, IF ANY, FORM A PART OF THIS LEASE TOGETHER WITH THE RULES AND REGULATIONS ADOPTED AND PROMULGATED BY THE LANDLORD PURSUANT TO ARTICLE 16 [DETAILING SPECIFIC OPERATING RULES AND REGULATIONS] HEREOF, AND SET FORTH ALL THE COVENANTS, PROMISES, ASSURANCES, AGREEMENTS, REPRESENTATIONS, CONDITIONS, WARRANTIES, STATEMENTS, AND UNDERSTANDING [COLLECTIVELY, "REPRESENTATIONS"] BETWEEN THE LANDLORD AND THE TENANT CONCERNING THE PREMISES AND THERE ARE NO REPRESENTATIONS, EITHER ORAL OR WRITTEN, BETWEEN LANDLORD AND TENANT OTHER THAN THOSE IN THIS LEASE.

THIS LEASE SUPERSEDES AND REVOKES ALL PREVIOUS NEGOTIATIONS, ARRANGEMENTS, LETTERS OF INTENT, OFFERS TO LEASE, LEASE PROPOSALS, BROCHURES, REPRESENTATIONS, AND INFORMATION CONVEYED, WHETHER ORAL OR IN WRITING, BETWEEN THE PARTIES HERETO OR THEIR RESPECTIVE REPRESENTATIVES OR ANY OTHER PERSON PURPORTING TO REPRESENT THE LANDLORD OR THE TENANT. THE TENANT ACKNOWLEDGES THAT IT HAS NOT BEEN INDUCED TO ENTER INTO THIS LEASE BY ANY REPRESENTATIONS NOT SET FORTH IN THIS LEASE, IT HAS NOT RELIED ON ANY SUCH REPRESENTATIONS, NO SUCH REPRESENTATIONS SHALL BE USED IN THE INTERPRETATION OR CONSTRUCTION OF THIS LEASE, AND THE LANDLORD SHALL HAVE NO LIABILITY FOR ANY CONSEQUENCES ARISING AS A RESULT OF ANY SUCH REPRESENTATIONS.

EXCEPT AS OTHERWISE PROVIDED HEREIN, NO SUBSEQUENT ALTERATION, AMENDMENT, CHANGE, OR ADDITION TO THIS LEASE SHALL BE BINDING UPON THE LANDLORD OR THE TENANT UNLESS IN WRITING AND SIGNED BY EACH OF THEM.

TIME IS OF THE ESSENCE OF THIS LEASE AND EACH AND ALL OF ITS PROVISIONS. SUBMISSION OF THIS INSTRUMENT OR EXAMINATION OR SIGNATURE BY TENANT DOES NOT CONSTITUTE A RESERVATION OF OR OPTION FOR LEASE OR AN OFFER TO LEASE BY LANDLORD, RATHER A PROPOSAL FROM TENANT TO LEASE THE PREMISES, AND THIS INSTRUMENT IS NOT EFFECTIVE AS A LEASE OR OTHERWISE UNTIL EXECUTION AND DELIVERY BY BOTH LANDLORD AND TENANT HEREOF AND NO OTHER PERSONS, AGENTS OR ENTITIES HAVE THE POWER OR AUTHORITY TO BIND LANDLORD.

TENANT:

LANDLORD: KETCHUM URBAN RENEWAL AGENCY

By: \_\_\_\_\_  
Name: Dan Gorham  
Title: Managing Broker

By: \_\_\_\_\_  
Name: Mark Eshman  
Title: Chairman

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **RULES AND REGULATIONS**

1. The sidewalks, halls, passages, exits, entrances, elevators and stairways of the Buildings shall not be obstructed by any of the Tenants or used by them for any purpose other than for ingress to and egress from their respective premises. The halls, passages, exits, entrances, elevators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgement of Landlord would be prejudicial to the safety, character, reputation and interests of the Buildings and the Tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any Tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. No Tenant and no employee, agent or invitee of any Tenant shall go upon the roof of the Buildings without the prior written consent of Landlord.
2. No sign, placard, picture, name, advertisement or notice, visible from the exterior of any Tenant's premises shall be inscribed, painted, affixed or otherwise displayed by any Tenant on any part of the Buildings without the prior written consent of Landlord. Landlord will adopt and furnish to Tenant general guidelines relating to signs inside the Buildings on the office floors. Tenant agrees to conform to such guidelines, but may request approval of Landlord for modifications, which approval will not be unreasonably withheld by Landlord. Material visible from outside of the Buildings will not be permitted.
3. Tenant shall not allow a fire or bankruptcy sale or any auction or discounted sale to be held on the premises or allow the premises to be used for the storage of merchandise held for sale to the general public.
4. No Tenant shall allow the premises to be used for lodging, nor shall cooking be done or permitted by any Tenant on the premises, except the use by the Tenant of Underwriters' Laboratory approved equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted, provided that such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations.
5. No Tenant shall employ any person or persons other than the janitor of Landlord for the purpose of cleaning the premises, unless otherwise agreed to by Landlord in writing. Except with the written consent of Landlord, no person or persons other than those approved by Landlord shall be permitted to enter the Buildings for the purpose of cleaning the same. No Tenant shall cause any unnecessary labor by reason of such Tenant's carelessness or indifference in the preservation of good order and cleanliness in the premises and the Buildings.
6. No Tenant shall have any keys made to the premises or the Buildings. No Tenant shall alter any lock or install a new or additional lock or any bolt on any door of its premises without the prior written consent of Landlord. Tenant shall in each case furnish Landlord with a key for any such lock. Each Tenant, upon the termination of its tenancy, shall deliver to Landlord all keys to doors in the Buildings which shall have been furnished to Tenant.
7. Landlord shall designate how all office equipment, furniture, appliances and other large objects or property ("Equipment") shall be moved in and/or out of the Buildings. The persons employed to move such Equipment in or out of the Buildings must be acceptable to Landlord. Landlord shall have the right to prescribe the weight, size and position of all Equipment brought into the Buildings. Heavy objects shall, if considered necessary by Landlord, stand on wood strips of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such Equipment from any cause, and all damage done to the Buildings by moving or maintaining such Equipment shall be repaired upon demand and at the expense of Tenant.
8. No Tenant shall use or keep in the premises or the Buildings any kerosene, gasoline or inflammable or combustible fluid or material other than limited quantities thereof reasonably necessary for the operation or maintenance of office equipment. Without Landlord's prior written approval, no Tenant shall use any method of heating or air conditioning other than that supplied by Landlord. No Tenant shall use or keep or permit to be used or kept any foul or obnoxious gas or substance in the premises, or permit or suffer the premises to be occupied or used in a manner offensive or objectionable to Landlord or

to other occupants of the Buildings by reason of noise, odors or vibrations, or interfere in any way with other Tenants or those having business therein.

9. Landlord shall have the right, exercisable without notice and without liability to any Tenant, to change the name and street address of the Buildings.
10. Landlord reserves the right to exclude from the Buildings, between the hours of 6 P.M. and 7 A.M. and at all hours on Sundays, legal holidays and on Saturdays any person who, in Landlord's sole opinion, has no legitimate business in the Buildings. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Buildings of any person. In the case of invasion, mob, riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Buildings during the continuance of the same by such action as Landlord may deem appropriate, including closing doors.
11. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the Buildings without the prior written consent of Landlord, and such items shall be installed as instructed by Landlord.
12. No Tenant shall obtain for use in the premises, ice, drinking water, food, beverage, towel or other similar services, except in accordance with such reasonable regulations as may be promulgated by Landlord.
13. Each Tenant shall see that the doors of its premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Tenant or Tenant's employees leave the premises, so as to prevent waste or damage, and for any default or carelessness in this regard Tenant shall make good all injuries sustained by other Tenants or occupants of the Buildings or Landlord. All Tenants shall keep the doors to the Buildings' corridors closed at all times except for ingress and egress.
14. The toilet rooms, toilets, urinals, wash basins and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees, agents or invitees, shall have caused it. Tenant shall be responsible for all private sanitary sewer lines up to the point they connect with a common sanitary sewer line, whether or not such lines or point are located within the Premises.
15. Except with the prior written consent of Landlord, no Tenant shall sell, or permit the sale at retail, of newspaper, magazines, periodicals, theater tickets or any other goods or merchandise to the general public in or on the premises, nor shall any Tenant carry on, or permit or allow any employee or other person to carry on, the business of stenography, typewriting or any similar business in or from the premises for the service or accommodation of occupants of any other portion of the Buildings, nor shall the premises of any Tenant be used for manufacturing of any kind, or any business or activity other than that specifically provided for in such Tenant's lease.
16. No Tenant shall install any radio or television antenna, loudspeaker, or other device on the roof or exterior walls of the Buildings, without Landlord's prior written consent.
17. Hand trucks shall not be used in any space or public halls of the Buildings, either by any Tenant or others, except those equipped with rubber tires and side guards or such other material-handling equipment as Landlord may approve, and shall not be placed in any elevators servicing the Building or the Property other than designated freight elevators. No other vehicles of any kind shall be brought by any Tenant into the Buildings or kept in or about the premises.
18. Tenant agrees to coordinate all moving activities of office equipment and furniture in and out of the Buildings with Landlord or Landlord's agent, and to use the services of an insured professional moving company. Tenant acknowledges that any attempt to bring in or take out any office equipment or furniture from the Buildings without prior written approval of Landlord or Landlord's agent will be prevented by the on-site security guard.

19. Each Tenant shall store all of its trash and garbage within its premises. No material shall be placed in the trash boxes, receptacles or common areas if such material is of such a nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash ordinance governing such disposal. All garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes and at such times as Landlord shall designate.
20. Canvassing, soliciting, distribution of handbills, or any other written material peddling in the Buildings are prohibited, and each Tenant shall cooperate to prevent the same.
21. Tenant agrees not to allow or keep any animals or pets of any kind on the premises, except those guide dogs which are for the direct purpose of aiding and assisting the visually impaired.
22. The requirements of the Tenants will be attended to only upon application by telephone or in person at the office of Landlord. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from Landlord.
23. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular Tenant or Tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other Tenant or Tenants, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the Tenants of the Building.
24. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of premises in the Buildings.
25. Landlord reserves the right to amend or supplement these Rules and Regulations from time to time and to adopt and promulgate additional rules and regulations as in its judgment may from time to time be needed for the preservation of good order therein.

EXHIBIT "A"  
The Premises  
(Floor Plan)

PLEASE INITIAL

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EXHIBIT "B"

Space Plan

Not Applicable

PLEASE INITIAL

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EXHIBIT "C"

Leasehold Improvements Agreement

This Leasehold Improvements Agreement (this "Agreement") is made a part of that certain Standard Office Lease (the "Lease"), executed concurrently herewith by and between Landlord "Landlord" and Windermere Real Estate ("Tenant"), and constitutes the entire agreement of Landlord and Tenant with respect to the construction and completion of the Premises described in the Lease. In the event of a conflict between the provisions of this Agreement and other provisions of the Lease, the provisions of this Agreement will control. Terms defined in the Lease, when used herein, shall have the same meanings as are ascribed to them in the Lease.

1. Premises Condition. Since the Premises have been occupied by a previous tenant, Tenant hereby agrees to accept the Premises in its "as is" condition..

Signage on the exterior of the building will meet the master signage plan provided by the Landlord and approved by the city of Ketchum. Signage will be, at a minimum, equal to the amount of space leased by the Tenant.

Signage on the interior of the building must be approved by the Landlord and located outside the premises of existing Tenants in the building.

Tenant will receive a credit toward the door and installation at the bottom of the stairway in the Tenant space to be applied to solar screens on the west facing windows of the loft. Solar screens will be approved by Landlord prior to installation.

Tenant will be fully responsible for the cost of painting, carpeting and other remodel costs (approved by Landlord) in the Tenant leased space.

PLEASE INITIAL

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Schedule C-1

BUILDING STANDARD IMPROVEMENTS

Not Applicable

Landlord has built the Leased Premises in accordance with the layout indicated on Exhibit A and the building standard improvements are as currently existing in the Leased Premises.

PLEASE INITIAL

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EXHIBIT "D"

Not Applicable

Lot 7, Block 5, Ketchum Survey, according to the Official Plat on file and of record at the Blaine County Recorder's office.

PLEASE INITIAL

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EXHIBIT "E"

Rental Schedule

Rental shall be payable as follows: Eight Hundred and 00/100 Dollars (\$800.00) paid on the first day of each month, in advance.

PLEASE INITIAL

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**LEASE GUARANTY**

FOR VALUE RECEIVED, and in consideration of, and in order to induce Ketchum Urban Renewal Agency "Landlord" to execute a certain Standard Office Lease (the "Lease") dated of even date herewith between Landlord and Windermere Real Estate ("Tenant") covering certain premises in Landlord's office building known as Visitors Center/Town Square situated in the City of Ketchum, State of Idaho, the undersigned (hereinafter referred to individually and collectively as "Guarantor" whether one or more) hereby jointly and severally guarantees unto Landlord (i) the full and prompt payment of the rent and all other sums and charges payable by Tenant under the Lease, and (ii) the full and timely performance and observance of all the covenants, terms, conditions and agreements therein provided to be performed and observed by Tenant [the rental, other sums and charges and other obligations, liabilities and duties described in the foregoing clauses (i) and (ii) being hereinafter collectively referred to as the "Obligations"]. Guarantor hereby covenants that if Tenant shall default in the payment or performance of any of the Obligations, Guarantor shall immediately pay the amount due to Landlord and perform all of the other obligations with respect to which Tenant is then in default. Guarantor further covenants to pay to Landlord on demand by Landlord all damages, costs and expenses that may arise in consequence of any default by Tenant or that are incurred in enforcing this Guaranty, including without limitation, reasonable attorneys' fees.

This Guaranty is an absolute and unconditional guaranty of payment and of performance. It shall be enforceable against Guarantor without the necessity of (i) any suit instigated by Landlord against Tenant, (ii) the exhaustion of Landlord's remedies with respect to Tenant under the Lease, or (iii) the enforcement of Landlord's rights with respect to any security which has ever been given to secure the payment and performance of the Obligations. This Guaranty shall also be enforceable without the necessity of any notice of Tenant's nonpayment, nonperformance or nonobservance, notice of acceptance of this Guaranty or any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives.

The obligations of Guarantor shall be irrevocable and unconditional, irrespective of the genuineness, validity, regularity or enforceability of the Lease or any security given for the Obligations or any circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor, and Guarantor waives the benefit of all principles or provisions of law, statutory or otherwise, which are, or might be, in conflict with the terms of this Guaranty, and agrees that the obligations of Guarantor hereunder shall not be affected by any circumstances, whether or not referred to in this Guaranty, which might otherwise constitute a legal or equitable discharge of a surety or guarantor. Without limiting the generality of the foregoing, Guarantor agrees that the occurrence of the following events (or any thereof), whether they occur with or without notice or consent by Guarantor, will in no way release or impair any liability or obligation of Guarantor hereunder: (i) Landlord, in its discretion, waives compliance by Tenant with any of its Obligations or covenants under the Lease or waives any default thereunder, or grants any indulgence with respect to the Lease, (ii) Landlord compromises, modifies, amends or changes any provision of the Lease, (iii) Landlord grants extensions or renewals of the Lease or the Obligations, (iv) Landlord transfers its interest in the premises covered by the Lease or its rights under this Guaranty, (v) Landlord consents to the assignment by Tenant of its rights under the Lease, (vi) Landlord deals in any respect with Tenant and the Obligations as if this Guaranty were not in effect, (vii) Tenant is released from its Obligations by benefit of an exculpation clause in the Lease, (viii) the release or discharge of Tenant in an creditor's proceedings, receivership, bankruptcy or other proceeding, (ix) the impairment, limitation or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease, resulting from the operation of any present or future provision of the federal Bankruptcy Act or other statute or from the decision in any court, and (x) the rejection or disaffirmance of the Lease in any such proceedings. If, as a result of such proceedings, Landlord is forced to refund any payment made by Tenant to Landlord because it is found to be a preference or for any other reason, Guarantor hereby covenants to pay such amount to Landlord upon demand.

PLEASE INITIAL

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All of Landlord's rights and remedies under the Lease and/or under this Guaranty are intended to be distinct, separate and cumulative, and no such right or remedy therein mentioned is intended to be in exclusion of or a waiver of any of the others. Specifically, the obligation of Guarantor hereunder shall not be released by Landlord's receipt, application or release of security given for performance and observance of covenants and conditions required to be performed and observed by Tenant under the Lease.

Until the Obligations have been paid in full, Guarantor shall not have any right of subrogation unless such right is expressly granted in writing by Landlord and any rights of subrogation of Guarantor are hereby expressly waived. Any indebtedness of Tenant held by Guarantor is hereby subordinated to this Guaranty; and such indebtedness of Tenant to Guarantor, if Landlord so requests, shall be collected, enforced and received by Guarantor as trustee for Landlord and shall be paid over to Landlord in order to satisfy the Obligations guaranteed hereunder.

Landlord in its sole discretion may apply all payments received by it from Tenant, Guarantor or any other guarantor under any other instrument, or realized by it from any security in such manner and order or priority as Landlord sees fit, to any of the Obligations of Tenant, whether or not any of the Obligations to which any payment is applied are due at the time of such application. The assignment by Landlord of the Lease and/or the rents and other receipts thereof may be either with or without Guarantor's knowledge or notice and shall in no manner whatsoever release Guarantor from any liability as Guarantor. This Guaranty may be assigned by Landlord.

Whether signed by only one person or more than one person, this Guaranty and all other obligations hereunder shall be binding on each of the undersigned and their respective heirs, executors, administrators, successors and assigns. The word "person" as used herein includes natural persons and entities of all kinds. Suit may be brought and maintained against Guarantor without the joinder of Tenant or any other person, and in the event that there is more than one guarantor of the Obligations, Landlord may (i) bring suit against all guarantors jointly and severally or against any one or more of them, (ii) compound or settle with any one or more of such guarantors for such consideration as Landlord may deem proper, and (iii) release one or more of the guarantors from liability without impairing the liability of the guarantors not so released; and no action brought by Landlord against any guarantor of the Obligations shall impair the right of Landlord to bring suit against any remaining guarantor or guarantors, including Guarantor hereunder.

Guarantor agrees that if Landlord shall employ counsel to present, enforce or defend any or all of Landlord's rights or remedies hereunder, or defend any action brought by Guarantor, then, in any such event, Guarantor shall pay all reasonable attorneys' fees and expenses incurred by Landlord in connection with any such action.

This instrument may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord.

As used herein, the term "Tenant" shall include any successor or assignee of Tenant, the term "Landlord" shall include any successor or assignee of Landlord, and the term "Lease" shall include any amendment, extension or renewal of the Lease.

**THIS GUARANTY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF IDAHO AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS. GUARANTOR HEREBY IRREVOCABLY AGREES THAT ANY LEGAL ACTION OR PROCEEDING AGAINST IT WITH RESPECT TO THIS GUARANTY MAY BE MAINTAINED IN THE COURTS OF SUMMIT COUNTY AND GUARANTOR HEREBY CONSENTS TO THE JURISDICTION AND VENUE OF SUCH COURTS.**

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**EXECUTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Address (Printed or Typed)

By: \_\_\_\_\_  
(Signature)

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**Schedule "1"**

**Punch List Items**

NONE

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City of Ketchum PO Box 2315  
Ketchum Idaho 83340  
(206) 726 3841

Architect of Record

**ARCHITECT SUSAN DESKO AIA**  
311 First Avenue North  
PO Box 8488 Ketchum, ID 83340  
tel 208.726.0155 fax 208.726.2143

Fire Suppression Design

**MATSON FIRE SERVICES**  
Office: 208.726.5722  
Wally Matson: 208.720.5180

Engineering Consultant

Mark Strong, P.E.  
Office: 208.726.0637  
Mobile: 208.241.2420

Electrical Engineer

Jacob Schanz, P.E.  
ES2 Engineers  
(208) 552-9874  
jacob.schanz@es2eng.com

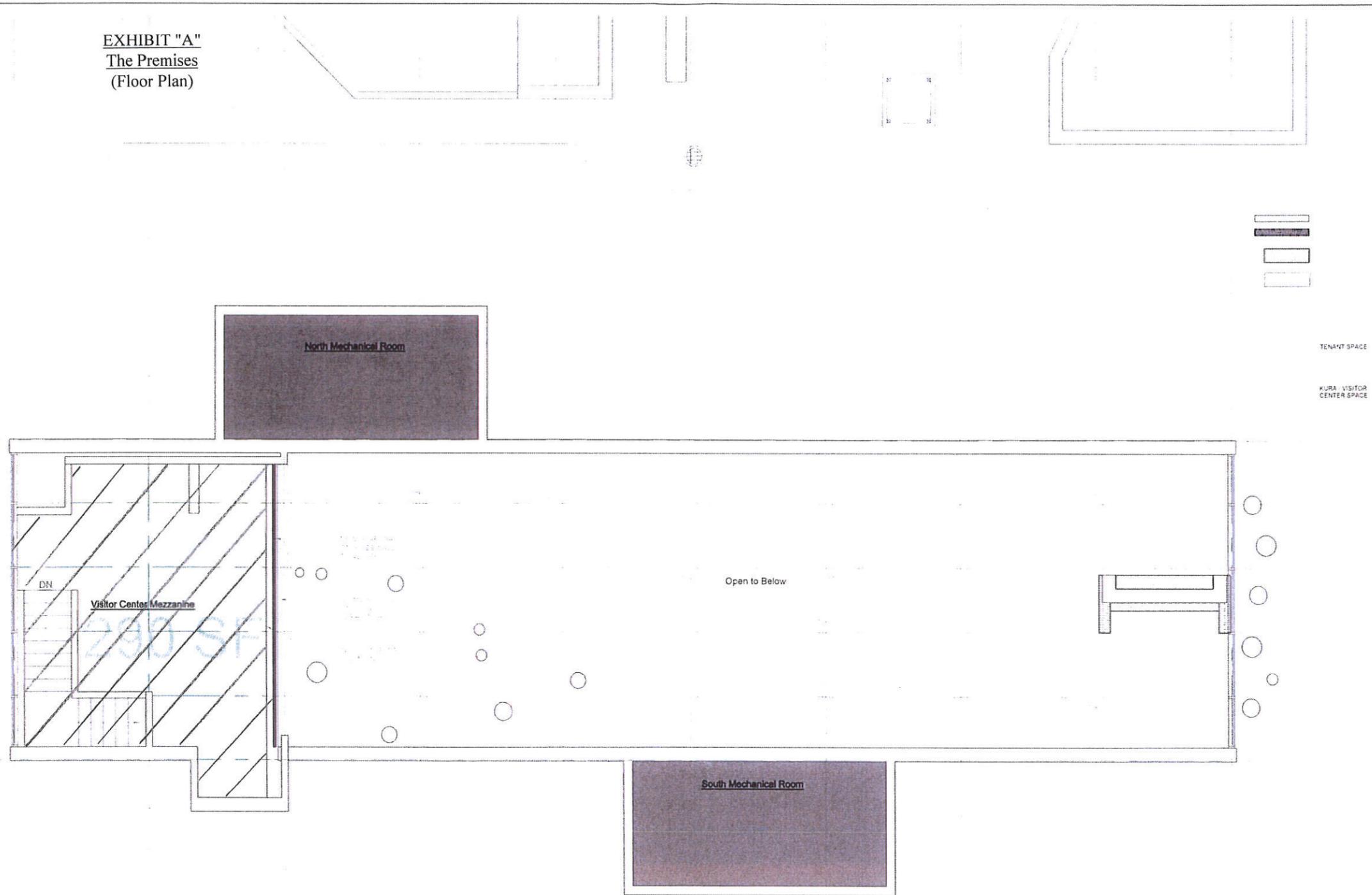
Project Name  
**KETCHUM - SUN VALLEY  
VISITOR CENTER**  
Project Address  
491 SUN VALLEY ROAD  
KETCHUM, IDAHO 83340  
BLAINE COUNTY

Store #	16572
Project #	54177-001
Drawn by	MAT
Date	Sept 9, 2011
Issue Date	Revision

Sheet Title  
**Second Floor  
Tenant Area Plan**  
Scale 1/4" = 1'-0"

Sheet Number  
**A2.2a**

EXHIBIT "A"  
The Premises  
(Floor Plan)



**City of Ketchum**  
**APPROVED**

Ketchum 11-082  
10/21/11

These documents are approved  
contingent on compliance with the  
mark-ups and notes applied. This is  
not approval of any violation of any  
code, ordinance, statute or regulation.





**Special Meeting**

**~ Minutes ~**

**Monday, August 18, 2014**

**3:00 PM**

**Ketchum City Hall**

**Present:** Mark Eshman - Chairman  
Trish Wilson – Vice Chairman  
Anne Corrock – Commissioner  
Tim Eagan – Commissioner  
Gary Lipton – Commissioner  
Baird Gourlay - Commissioner  
Jim Slanetz - Commissioner

**Also Present:** Suzanne Frick – Executive Director  
Stephanie Bonney - Attorney  
Sandra Cady – Secretary/Treasurer  
Lisa Enourato – Assistant to the Executive Director  
Katie Carnduff – Administrative Clerk

**1. CALL TO ORDER**

Vice Chairman Trish Wilson called the meeting to order at 3:07 p.m.

**2. COMMUNICATIONS FROM THE BOARD OF COMMISSIONERS.**

Commissioner Anne Corrock welcomed Suzanne Frick as the new Executive Director of the Ketchum Urban Renewal Agency.

**3. AGREEMENTS AND CONTRACTS.**

**a. Transit Hub Project – Easement and Use Agreement between Mountain Rides and Ketchum Urban Renewal Agency – Joyce Allgaier, Director of Planning and Building.**

Joyce Allgaier, Director of Planning and Building gave the board a brief history of the Transit Hub project, presented the Easement and Use Agreement and explained the reason for the agreement.

Vice Chairman Trish Wilson expressed concerned about timely graffiti removal. Jason Miller, Mountain Rides Executive Director responded that their policy is to remove graffiti as it appears.

Commissioner Gary Lipton suggested Mountain Rides pay to have a new electrical meter installed. Jason said their electrical engineer suggested the cost of a new meter would be quite expensive and it would be more cost effective to pay the City for the power used.

Commissioner Gary Lipton asked if Mountain Rides would be supplying money to pay for the possible repair of the disintegration of the curb in the future. Jason said the curb is in the right of way and is covered in an agreement with the City of Ketchum. Commissioner Gary Lipton requested a copy of the agreement. Commissioner Baird Gourlay commented that they cannot obligate a future Council.

Chairman Mark Eshman asked what effect the granting of an easement had to liability insurance. Stephanie Bonney, KURA Attorney said the coverage does not change.

Commissioner Gary Lipton asked if they could include a clause that would require Mountain Rides to pay legal costs. Stephanie said they could add an indemnification that holds Mountain Rides responsible for acts that Mountain Rides commits, and explained the reasons that proof of insurance is generally not required for easement agreements, but said it could be included in this agreement. Jason and Stephanie

clarified that the KURA and Mountain Rides both have the same insurance company, ICRMP. The board and Jason agreed to include indemnification and maintaining an insurance amount consistent with the Tort Act.

Commissioner Tim Eagan asked who was involved in negotiating the business terms of the agreement, and why they had settled on a 15 year term. Jason Miller said it was done with city staff, and the 15 year term was based on the usable life of the asset they are delivering.

Commissioner Tim Eagan commented that the cleaning schedule presented was not sufficient. He asked if Mountain Rides pays rent for any of their shelters and if there was any discussion of a rental fee for this; Jason responded no to both questions. Commissioner Gary Lipton commented on the increased use of the bathrooms at Starbucks. The board discussed the issues regarding the increased use of the bathrooms at Starbucks.

Chairman Eshman asked for clarification on the calculation for utility expense for the shelters. Jason said they would be based on the increase from historical billings. Chairman Eshman suggested they do some research to find the best method to determine the cost. Chairman Eshman suggested the agreement be redrafted and visited again at the next KURA board meeting.

Commissioner Eagan suggested the subcommittee for the building work on the easement agreement in regards to the term of the easement. Commissioner Gourlay suggested three five year terms. Stephanie and Jason clarified they need to have at least a ten year term.

Stephanie listed the changes requested by the board: add an indemnification clause, add insurance requirement, add something that states they will pay for bathroom maintenance in amount agreed upon by both parties, change to the term as recommended by the subcommittee, change the removal of graffiti.

Commissioner Lipton brought up the issue of rent. Commissioner Corrock thought Mountain Rides should contribute to the cost of the common area maintenance, but is okay with not charging rent. Commissioner Slanetz agreed that they should contribute to CAM's but shouldn't pay rent. Vice-Chairman Wilson noted that they are a public entity and the KURA is a public entity and they should cover costs that they create, but that the KURA should not be trying to make any money. Commissioner Gourlay stated that it is helpful to the business to have the bus shelter on the property.

Jason handed out a breakdown of the \$100,000 that Mountain Rides received from the KURA.

#### **4. COMMUNICATIONS FROM THE PUBLIC.**

##### **a. Presentation regarding the Tax Reimbursement Incentive Program for Hotel Ketchum – Jack Bariteau**

Jack Bariteau updated the board on Hotel Ketchum and the new affiliation with Auberge Resorts. Jack said the new state tax incentive program really helps with financing. As part of the approval they agreed to underground the power lines. Jack is requesting the KURA work with them to reimburse them for that expense, which is kind of what the state is looking for from the local community as a match.

Commissioner Lipton asked what the cost of undergrounding would be. Jack said it is estimated at about 1 million, and they would be looking for about \$300,000 in reimbursement. Chairman Eshman said it was a perfect example of a public private partnership that the KURA should be doing. Commissioner Corrock said this seemed to be an example of a BDA. Commissioner Lipton asked if there would be any affordable housing. Jack said they are required to provide 18 beds, and they are planning on doing so. Commissioner Gourlay requested more definition of the undergrounding of the power lines section by section.

#### **5. CONSENT CALENDAR**

##### **a. Approval of minutes: July 14, 2014 and July 21, 2014.**

##### **b. Approval of current bills.**

*Motion to approve the consent calendar.*

<b>RESULT:</b>	<b>APPROVED</b>
<b>MOVER:</b>	Baird Gourlay, Commissioner
<b>SECONDER:</b>	Jim Slanetz, Commissioner
<b>AYES:</b>	Anne Corrock, Mark Eshman, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton.
<b>ABSTAINED:</b>	Tim Eagan

**6. EXECUTIVE SESSION to discuss Personnel pursuant to Idaho Code §§67-2345 1(b).***Motion to go into executive session pursuant to Personnel, Idaho Code §§67-2345 1(b).*

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Baird Gourlay, Commissioner
<b>SECONDER:</b>	Trish Wilson, Vice Chairman
<b>AYES:</b>	Anne Corrock, Tim Eagan, Mark Eshman, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton.

Chairman Eshman left the meeting.

The board came out of Executive Session at 4:41 p.m.

The board requested staff draft an RFP regarding hiring a new attorney for the Ketchum Urban Renewal Agency.

The Board continued to discuss the easement agreement with Mountain Rides, and the possibility of including rent in the agreement.

**7. ADJOURNMENT.**

***Commissioner Corrock motioned to adjourn at 4:58 p.m., Commissioner Gourlay seconded, the motion passed unanimously.***

\_\_\_\_\_  
Mark Eshman  
Chairman

ATTEST:

\_\_\_\_\_  
Sandra E. Cady  
Secretary/Treasurer



**Special Meeting**

**~ Minutes ~**

**Monday, August 26, 2014**

**3:00 PM**

**Ketchum City Hall**

**Present:** Trish Wilson – Vice Chairman  
Anne Corrock – Commissioner  
Tim Eagan – Commissioner  
Gary Lipton – Commissioner  
Baird Gourlay - Commissioner  
Jim Slanetz - Commissioner

**Absent:** Mark Eshman - Chairman

**Also Present:** Suzanne Frick – Executive Director  
Stephanie Bonney - Attorney  
Sandra Cady – Secretary/Treasurer  
Lisa Enourato – Assistant to the Executive Director  
Katie Carnduff – Administrative Clerk

**1. CALL TO ORDER**

Vice Chairman Trish Wilson called the meeting to order at 3:02 p.m.

**2. COMMUNICATIONS FROM THE BOARD OF COMMISSIONERS.**

**a. Discussion regarding the Visitor Center, Tablet Proposal and Potential Building Projects – Gary Lipton, Commissioner.**

Commissioner Lipton presented some information regarding housing projects, and has been planning on presenting a potential building project on Leadville, but it is not feasible at this time.

Aaron Pearson presented the tablet proposal at 491 Sun Valley Road. There are two proposals, one is for the digital signage project and one is for a network environment and effective internet to the building. This presents an opportunity for the KURA to provide free public wi-fi in that space. Aaron is proposing to work with the City to use their broadband capacity. Effective internet access must happen for the digital signage project to work.

The purpose of the digital signage project is to provide a digital platform to whoever would wish to rent it out. The model is a 1-1 relationship, 1 advertiser per screen. He has two proposals, one is for eight screens and one is for 16. He is proposing eight 32 inch screens or sixteen - nineteen inch displays. They are touch screens and allow for interactivity. They would be controlled by a cloud based management platform. Aaron would provide the maintenance and the KURA would handle sales. The screens would provide businesses an opportunity to be in the visitor center. Aaron believes the larger screens provide a bigger impact. Aaron will provide a template for the advertisers to use, which can be customized for additional fees.

Commissioner Lipton suggested putting up eight screens and charging a fee for each screen. Commissioner Lipton also thinks they should keep the 6 TV screens and use them for other advertising opportunities. Commissioner Lipton orientated the board on where the screens would be located in the building. He thinks they should charge \$300 a month for the bigger screens. He would also like to hire someone to sit in the building for a month and do a headcount for marketing purposes.

Vice Chairman Wilson thinks it is great idea with great potential, she commented that they should

consider renting to an entire real estate firm rather than only agents. Commissioner Corrock commented that it is important to market the screens to other businesses and shouldn't price those businesses out. Vice Chairman Wilson believes they need some feedback from the businesses. Commissioner Eagan suggested that they set up a different pricing structure depending on the type of business. Commissioner Slanetz asked if the screens could be divided. Aaron said each screen could be split into multiple zones, it would need to be carefully designed and updating the content would be much more complicated, but it is possible. Aaron clarified that there will not be any sound associated with the screens.

Commissioner Lipton clarified that the screens will not interfere with any of the architectural elements of the building.

Commissioner Gourlay commented that they would need to hire someone to do sales, and they will need a cost estimate of what that would cost. Commissioner Gourlay suggested looking at this from a budget standpoint – initially it looks like the cost is 40,000 with 2,000 a year on top of that. Aaron said the networking is for the building only and does not include the outdoor space. Aaron clarified that the lifespan of the screens are 5-10 years. There will not be servers in the building, it is cloud based system. The software cost is \$99 per screen per year. Aaron will put in a power management system. City Attorney Stephanie Bonney said as owner of the building they are probably covered for insurance, but they should double check on it.

Commissioner Gourlay commented that more than 8 screens will cause diminishing returns.

Commissioner Eagan requested a firm bid from Aaron before the board votes on the issue. Aaron agreed to provide a formal bid at the next board meeting.

Suzanne Frick, Executive Director, clarified the cost of the project, and suggested the board discuss where the funding would be coming from. Vice Chairman Wilson requested more information on selling and pricing.

Tim Simones commented on the proposed project.

Aaron clarified the ongoing costs are about \$11,000 a year. Commissioner Corrock commented that there would be additional costs for a sales person and cleaning of the screens. Commissioner Gourlay suggested a door counter rather than hiring someone to count people coming in the door.

Commissioner Eagan said he could do an inquiry by sending an email on the MLS to determine if there is interest. Commissioner Corrock was concerned with pricing, and would not want to price to high and end up having to lower the price.

### 3. PUBLIC HEARINGS.

- a. **Resolution 14-URA3 – A resolution of the Board of Commissioners of the Ketchum Urban Renewal Agency of Ketchum, Idaho, to be termed “The Annual Appropriation Resolution”, appropriating sums of money authorized by law and deemed necessary to defray all expenses and liabilities of the Urban Renewal Agency, for the fiscal year commencing on October 1, 2014 and ending September 30, 2015, for all general, special and corporate purposes..**

Sandy Cady, Treasurer presented the resolution to the board.

Vice Chairman Wilson opened to public comment, and there were no comments from the public.

***Motion to approve Resolution 14-URA3.***

<b>RESULT:</b>	<b>APPROVED (Unanimously)</b>
<b>MOVER:</b>	Gary Lipton, Commissioner
<b>SECONDER:</b>	Tim Eagan, Commissioner
<b>AYES:</b>	Anne Corrock, Tim Eagan, Baird Gourlay, Gary Lipton, Jim Slanetz, Trish Wilson.
<b>ABSENT:</b>	Mark Eshman, Chairman

#### 4. COMMUNICATIONS FROM THE PUBLIC.

##### a. Transit Hub Project – Easement and Use Agreement between Mountain Rides and Ketchum Urban Renewal Agency – Jason Miller, Mountain Rides Executive Director.

Commissioner Eagan sent an email to Jason listing the things the board wants included in the agreement including rent, cams, electric meter, five year term, liability insurance and signage. Jason Miller responded that Mountain Rides will not pay rent and they would be okay with a 10 year lease. The remaining issue is the power and the additional expense of having a bus shelter on the property. Commissioner Eagan commented that putting a separate meter in for the shelter would cost \$20,000-\$30,000. A sub-meter would have to be read the same day as Idaho Power reads their meter which Commissioner Eagan felt would be difficult for staff, and thinks the best option is to come up with a fair reimbursement on the power. Commissioner Eagan also commented on the maintenance load according to numbers the board had received from the parks and recreation department. Commissioner Gourlay commented that the numbers are blown out of proportion, and does not think Mountain Rides should have to pay accordingly. Commissioner Lipton said that his intent with discussing rent was that there will be wear and tear to the building. It does not have to be called rent, but there is usage of building from travelers on the bus. Commissioner Eagan suggested Mountain Rides pay something in the 400-500 dollar range for expenses. Commissioner Gourlay said he would only want to charge for electricity. Commissioner Wilson proposed a six month agreement for \$300 including the power.

Commissioner Gourlay felt that \$3,000 per annum be the max that they would charge them. He thinks the impacts are minimal. Commissioner Slanetz said he is of a similar mindset, and is not opposed to the \$300 a month to cover some of the expenses. Commissioner Corrock asked what Starbucks pays for their lease of the exterior portion of the building. Lisa Enourato, Assistant to the Executive Director said Starbucks pays \$0.60/square foot. Commissioner Corrock suggested going with 0.60/square foot plus electricity for Mountain Rides.

***Motion to set the contract at \$300 a year to include electricity.***

<b>RESULT:</b>	<b>APPROVED (5-1-1)</b>
<b>MOVER:</b>	Trish Wilson, Vice Chairman
<b>SECONDER:</b>	Baird Gourlay, Commissioner
<b>AYES:</b>	Anne Corrock, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton.
<b>NAYES:</b>	Tim Eagan
<b>ABSENT:</b>	Mark Eshman

***Motion to approve the easement and use agreement between Mountain Rides and the Ketchum Urban Renewal Agency with the additional provision of expense reimbursement of \$300 a month to reimburse the URA for the cost of utilities and maintenance including use of the easement and power to be reviewed each year.***

<b>RESULT:</b>	<b>APPROVED (UNANIMOUS)</b>
<b>MOVER:</b>	Baird Gourlay, Commissioner
<b>SECONDER:</b>	Jim Slanetz, Commissioner
<b>AYES:</b>	Anne Corrock, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton, Tim Eagan
<b>ABSENT:</b>	Mark Eshman

**5. Approval of current bills.***Motion to approve the current bills.*

<b>RESULT:</b>	<b>APPROVED (UNANIMOUS)</b>
<b>MOVER:</b>	Baird Gourlay, Commissioner
<b>SECONDER:</b>	Tim Eagan, Commissioner
<b>AYES:</b>	Anne Corrock, Tim Eagan, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton.
<b>ABSENT:</b>	Mark Eshman

**6. EXECUTIVE SESSION to discuss Litigation pursuant to Idaho Code §§67-2345 1(f).***Motion to go into executive session pursuant to Litigation, Idaho Code §§67-2345 1(f).*

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Baird Gourlay, Commissioner
<b>SECONDER:</b>	Jim Slanetz, Commissioner
<b>AYES:</b>	Anne Corrock, Tim Eagan, Baird Gourlay, Jim Slanetz, Trish Wilson, Gary Lipton.
<b>ABSENT:</b>	Mark Eshman

The board came out of Executive Session at 5:02 p.m.

Commissioner Gourlay left the meeting at 5:04 p.m.

The board discussed the lease proposal from Windermere for 491 Sun Valley Road upstairs space. Lisa Enourato, Assistant to the Executive Director, said the proposed rent price was \$800 all-inclusive for 290 usable square feet.

The board discussed if there was an issue of competition on the TV screens for real estate and coffee shops. The board discussed different ways to communicate the tablet advertising opportunities to the public including use of the MLS email and the City Newsletter.

Lisa Enourato asked for clarification of the decision regarding Tory Taglio's request to rent the downstairs space to show his photography. The board agreed to wait until they have made a decision regarding the screens.

**7. ADJOURNMENT.**

***Vice Chairman Trish Wilson motioned to adjourn at 5:16 p.m., Commissioner Tim Eagan seconded, the motion passed unanimously.***

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Trish Wilson  
Vice Chairman

ATTEST:

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Sandra E. Cady  
Secretary/Treasurer

## Report Criteria:

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

[Report].GL Account Number = "961000000"- "9844109930"

Vendor Name	Invoice Number	Description	Net Invoice Amount
<b>URA DEBT SERVICE FUND</b>			
<b>URA DEBT SERVICE EXPENDITURES</b>			
<b>96-4800-4200 PROF.SERVICES-PAYING AGENT</b>			
US BANK	3786115	Trustee- Urban Renewal Agency of Ketchum	1,600.00
Total URA DEBT SERVICE EXPENDITURES:			1,600.00
Total URA DEBT SERVICE FUND:			1,600.00
<b>URBAN RENEWAL AGENCY</b>			
<b>URBAN RENEWAL EXPENDITURES</b>			
<b>98-4410-4800 DUES, SUBSCRIPTIONS, &amp; MEMBERS</b>			
REDEVELOPMENT ASSOCIATIO	M15014	Contribution	500.00
Total URBAN RENEWAL EXPENDITURES:			500.00
Total URBAN RENEWAL AGENCY:			500.00
Grand Totals:			2,100.00