



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

I move to authorize the Mayor to sign Right-of-Way Encroachment Agreement 22881 between the City and Cox Communications.

**Reasons for Recommendation:**

- The improvements will not impact the use or operation of Sage Road.
- The improvements will not impact drainage or snow removal within the public right-of-way.
- The project complies with all standards for Right-of-Way Encroachment Permit issuance specified in Ketchum Municipal Code §12.12.060.

**Policy Analysis and Background (non-consent items only):**

The project proposes to replace an existing above-ground telecommunications vault with a new underground telecommunications vault within the public right-of-way.

Pursuant to Ketchum Municipal Code §12.12.040.C, a Right-of-Way Encroachment Permit is required for any permanent encroachment of the public right-of-way where a permanent fixture to the ground or a building will occur. The associated Right-of-Way Encroachment Agreement is intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair, relocation, or removal of the encroachment. The standards for issuance of a Right-of-Way Encroachment Permit are specified in Ketchum Municipal Code §12.12.060. The encroachments proposed for the Sage Road project complies with all standards.

**Sustainability Impact:**

None OR state impact here: None

**Financial Impact:**

None OR Adequate funds exist in account:

**Attachments:**

1. Right-of-Way Encroachment Agreement 22881
2. Exhibit "A"

**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY CLERK  
CITY OF KETCHUM  
POST OFFICE BOX 2315  
KETCHUM, IDAHO 83340**

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**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22881**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_, 2023, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and \_\_\_\_\_, representing Cox Communications (collectively referred to as "Owner"), whose address is 1700 Vegas Dr. Las Vegas, NV 89106.

*RECITALS*

WHEREAS, Owner wishes to permit placement of a new telecommunications vault and replace an existing pedestal on the northwest corner of Warm Springs Road and East Canyon Run Blvd. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the sidewalk, street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

*TERMS AND CONDITIONS*

1. Ketchum shall permit Owner to install telecommunication infrastructure identified in Exhibit "A" within the public right-of-way on the northwest corner of Warm Springs Avenue and East Canyon Run Blvd, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.
2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" shall be approved by the City prior to any modifications taking place.
3. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation of the vault, to the satisfaction of the Director of Streets and Facilities.
4. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the

any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

5. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

6. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

10. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate, and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

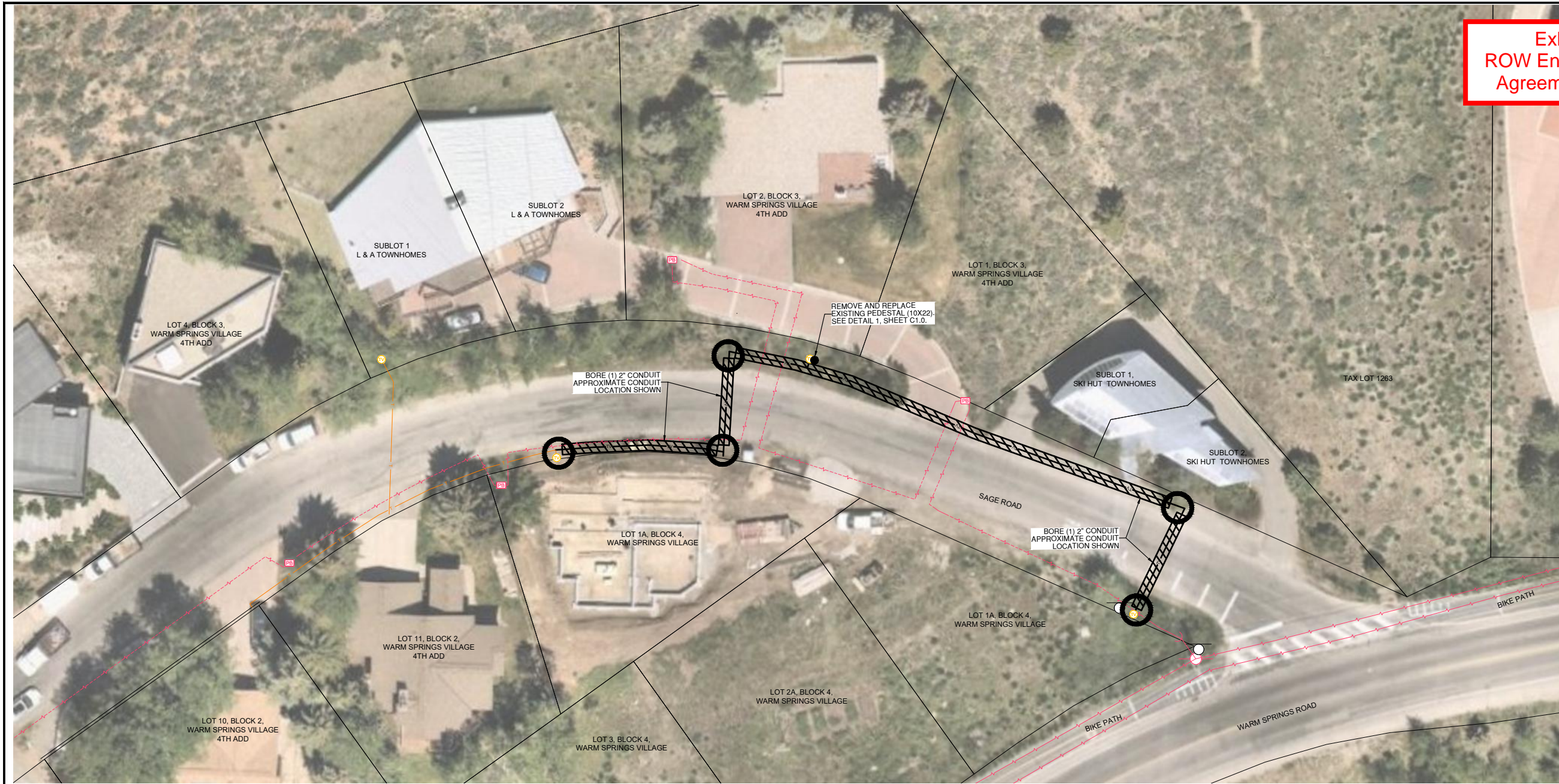


**EXHIBIT "A"**

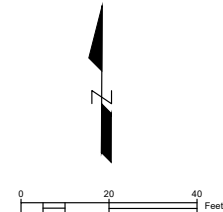
Exhibit A  
ROW Encroachment  
Agreement 22881



OPAL ENGINEERING, PLLC  
PO BOX 2630 • HAILEY, ID 83333  
WWW.OPAL-ENGINEERING.COM



PLAN VIEW: SAGE ROAD  
SCALE 1" = 20'



PURPOSE: ISSUE FOR ENCROACHMENT PERMIT (8/21/2023)

REVISION NO.	DATE	DESCRIPTION



**PLAN VIEW**  
**COX COMMUNICATIONS- SAGE ROAD**  
 PREPARED FOR SORENSON AND SONS UTILITY CONTRACTORS

**DATA SHEET**

**CPH CHALLENGER SERIES PEDESTALS**  
CPH911, CPH920, CPH1022

**FEATURES**

- Designed specifically for housing passive equipment, these special versions of the Channell CPH911, CPH920, and CPH1022 pedestals feature direct-bury bases with a high-toe design that are less likely to lean or tilt and do not require stakes for installation. A special self-locating cover ensures that the pedestals lock properly without additional alignment. The covers include Channell's Self-Lock® security hardware.
- 9" and 10" diameter round profiles provide maximum workspace and bend radius provisions for all passives, cables and connectors
- Round pedestal style maintains a consistent look with legacy pedestals in the field
- Constructed of durable, high-strength materials for maximum security and long service life
- Universal equipment mounting bracket for passives facilitates installation
- Optional stake mounting provision for joint trench or other special applications

**PART NUMBER MATRIX**

Challenge Pedestal/Heating Size	CPH	XXXX	CK	SE	SK	LXX	AXX
911 9" x 11" (230mm x 280mm)	911	1022	10" x 22" (255mm x 560mm)				
920 9" x 20" (230mm x 510mm)							
1022 10" x 22" (255mm x 560mm)							

**DIMENSIONS**

Model	A	B	C	D
CPH 911	13.0"	9.5"	14.5"	10.5"
CPH 920	23.0"	9.5"	14.5"	10.5"
CPH 1022	23.0"	10.5"	14.5"	10.5"
CPH 1022	23.0"	10.5"	14.5"	10.5"

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- NOTES**
- SEE SHEET C0.1 FOR ADDITIONAL NOTES AND DETAILS.
  - AERIAL IMAGERY SHOWN HEREON PER BLAINE COUNTY GIS 2022 NEAR MAP.
  - AERIAL IMAGERY MAY NOT SHOW CURRENT CONDITIONS.
  - THE PURPOSE OF THIS PLAN SET IS TO PROVIDE REPAIR DETAILS FOR DISTURBANCES ASSOCIATED WITH PROPOSED EXTENTS OF THE NEW JOINT TRENCH COX COMMUNICATIONS LINE. THE ALIGNMENT AND VAULT/PEDESTAL LOCATIONS SHOWN HEREON ARE PER A MAP BY COX COMMUNICATIONS RECEIVED AUGUST 04, 2023. OPAL ENGINEERING, PLLC HAS NOT ENGINEERED THE COMMUNICATIONS LINE ALIGNMENT, VAULT/PEDESTAL LOCATIONS, OR VAULT/PEDESTAL DETAILS. SEE DETAILS 1 AND 2, SHEET C0.1 FOR REPAIR DETAILS AS NECESSARY.
  - POWER, INFRASTRUCTURE LOCATIONS ARE APPROXIMATE AND ARE BASED UPON IDAHO POWER UTILITY LOCATION MAPS. COMMUNICATIONS UTILITY LOCATIONS ARE APPROXIMATE BASED UPON A MAP BY COX COMMUNICATIONS RECEIVED AUGUST 04, 2023.
  - ALL REPAIRS MUST MATCH EXISTING LINES, GRADES, AND DRAINAGE PATTERNS. DAMAGED LANDSCAPE AND IRRIGATION SHALL BE REPAIRED. CONTRACTOR SHALL REPAIR ALL IN-GROUND HEATING SYSTEMS IF DAMAGED AND COORDINATE WITH OWNER PRIOR TO CONSTRUCTION COMMENCEMENT. ALL REPAIRS SHALL RESULT IN EQUAL OR BETTER QUALITY.
  - ALL EXCAVATION IS TO BE DONE WITHIN THE GRAVEL SHOULDER.

**LEGEND**

**EXISTING CONDITIONS**

- PROPERTY LINE PER BLAINE COUNTY GIS
- BURIES POWER LINE PER IDAHO POWER
- POWER BOX PER IDAHO POWER
- POWER POLE
- CABLE TV BURIED BY COX
- TV BOX BY COX
- SIGN

**PROPOSED CONDITIONS**

- PROPOSED COMMUNICATIONS LINE
- PROPOSED BORE
- PROPOSED COMMUNICATIONS PEDESTAL
- POTENTIAL DISTURBED AREA. MATCH EXISTING FINISH MATERIALS, LINES, GRADES, AND DRAINAGE PATTERNS

REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this project without the written consent of Opal Engineering, PLLC.