



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: December 4, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to review and approved Alley Maintenance Agreement #24896 and Right-of-Way Encroachment Agreement #24897 for the multi-family development at 120 8th Street.

Recommended Motion:

I move to approve Agreements #24896 and #24897 and direct the mayor to sign.

Reasons for Recommendation:

- The development (initially referred to as Lofts at 780) received design review approval on October 26, 2021 (File No P21-069)
- A building permit was issued for the development on November 16, 2021 (B21-068)
- The right-of-way improvements and alley improvements have been constructed per the approved plans. The sidewalks along 1st Ave and 8th Street contain snowmelt and therefore require a ROW encroachment permit.
- The city does not currently maintain the alley behind the development as the alley is not improved to the city’s standards, therefore, the applicant is responsible for snow removal and maintenance of the alley until such time the alley is fully improved, and the city assumes snow removal and maintenance responsibilities.

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

Sustainability Impact:

None OR state impact here: The city does not permit snowmelt in the ROW in residential areas, however, we do permit snowmelt in the community core. This development is in the community core and therefore snowmelt is permitted.

Financial Impact:

None OR Adequate funds exist in account:	None
--	------

Attachments:

1. Alley Maintenance Agreement #24896 with exhibits
2. ROW Encroachment Agreement #24897 with exhibits

Recording Requested By and
When Recorded Return to:

City of Ketchum
P.O. Box 2315
191 5th Street West
Ketchum, ID 83340

For Recording Purposes Do
Not Write Above This Line

GRANT OF LICENSE AND ALLEY MAINTENANCE AGREEMENT #24896

This maintenance agreement ("Agreement") is made and entered into as of the 6th day of November, 2023, the ("Effective Date") by and between the CITY OF KETCHUM, and Idaho municipal corporation ("the City"), who is the owner of the public lands as more specifically delineated on Exhibit "A" (hereinafter "Alley") attached hereto, and The Residences at One Twenty Owners Association (herein "Owner"), who is the owner of that certain parcel of real property legally described as The Residences at One Twenty as more specifically delineated on Exhibit "B" attached hereto and referred to as "Development".

1. **Grant of License** - The City hereby grants to Owner and its agents, employees, contractors, subcontractors, (collectively "Agents"), subject to the conditions and covenants set forth in this Agreement as of the date this Agreement is signed by all parties, (hereinafter the "Commencement Date"), a revocable license over and right of entry on and use of the Alley for the purposes of vehicular and pedestrian ingress, egress and access to the Development, including installation of pavement, and for the maintenance, snow removal and repair of the Alley on that portion identified in Exhibit B. The portion of the Alley identified in Exhibit B shall always be open and available to the public and the City shall have exclusive authority with respect to all parking restrictions and enforcement.
2. **License Revocable** - This Agreement and the rights to use the Alley granted hereunder are revocable. City Shall provide Owner with 60 days notice if the Agreement is to be terminated. Owner understands and agrees that by entering into this Agreement Owner obtains no claim or interest in said City property which is adverse to that of the City, that Owner obtains no exclusive right to said City property nor any other right to use the City property not specifically described herein.
3. **Prior Rights** - This grant is made subject to and subordinate to the prior and continuing rights and obligations of the City, its successors and assigns, and the general public, to use the Alley in the performance of its municipal operations; provided, however, that such use shall not materially interfere with the use of the Alley by the Owner for the

Permitted Use. This Agreement is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect the Alley as of the Effective Date, and the word "grant" shall not be construed as a covenant against the existence of any of the foregoing.

4. **Term** - The term of the Agreement shall commence on the Commencement Date and shall be in effect until the City provides notice the Agreement is terminated.
5. **Permits, Licenses and Approvals** - As a condition to Owner's right to use the Alley for the Permitted Use, Owner shall obtain any required permits, licenses and approvals from the City and any other governmental agencies having jurisdiction over Owner's use of the Alley. Ownershall maintain such permits, licenses, ordinances and approvals in force throughout the term of this Agreement. Owner shall be solely responsible for any and all fees, charges, or other expenses that may be imposed by any regulatory agencies in connection with Owner's use or enjoyment of the Alley.
6. **Condition of Property** - The City makes no warranty or representation of any kind concerning the condition of the Alley or the fitness of the Alley for the Permitted Use, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties hereto that Owner has personally inspected the Alley, knows its condition and accepts it as is.
7. **Alterations. Repair and Maintenance**
 - a) Owner agrees, at its sole cost and expense to pave the portion of the Alley identified in Exhibit B to the satisfaction of the City. Owner shall submit a paving and improvement plan to the City for review and approval that shall be incorporated into this Agreement by reference.
 - b) Owner agrees, at its sole cost and expense, to keep the portion of Alley in Exhibit B in reasonably safe, clean and sightly condition, reasonably free from waste and snow to the reasonable satisfaction of the City. Owner agrees, at its sole cost and expense, to perform snow removal for the full length of the Alley at a width of 20 feet and to place all removed snow in snow storage areas as designated by the City. Owner shall perform all repairs and maintenance to the Alley.

The Owner shall perform maintenance and snow removal in accordance with this Agreement. The City shall not be responsible for maintenance, repairs and snow removal in the Alley. If Owner fails to keep the Alley in the condition required under this Section 7, then the City may, after ten (10) days written notice to Owner and a five (5) day opportunity to cure said problem, perform the necessary work at the expense of Owner, which expense Owner agrees to pay to the City upon written demand.

- c) All alterations, maintenance and repairs by Owner upon the Alley shall be performed

in a good manner reasonably satisfactory to the City.

- d) Any open holes shall be satisfactorily covered at all times when Owner's Agents are not physically working in the vicinity of such holes. Upon completion of work, all such holes shall be filled in to meet the surrounding ground level and the Alley shall be left in a neat and safe condition reasonably satisfactory to the City.
 - e) Owner shall not suffer any mechanic's or materialman's liens of any kind to be enforced against the Alley for any work done or materials furnished at Owner's request. If any such liens are filed, Owner shall bond or remove them within sixty (60) days of learning of the same, at Owner's expense, and shall pay any judgment which may be entered in connection therewith.
 - f) Should Owner fail, neglect or refuse to do so, the City, after giving Owner twenty (20) business days written notice, shall have the right to pay any amount required to release any such liens or to defend any action brought and to pay any judgment entered. Owner shall be liable to the City for all costs, damages, reasonable attorney's fees and any amounts expended in defending any proceedings or in payment of any of said liens or judgment. The City may post and maintain upon the property notices of non-responsibility as provided by applicable law.
8. **Permitted Uses and Restriction on Use** – The Owner may use the alley for the purposes of vehicular and pedestrian ingress, egress and access to the Development, including installation of pavement, and for the maintenance, snow removal and repair of the Alley. The Alley shall be open and available to the public at all times and the City shall have exclusive authority with respect to all parking restrictions and enforcement. Owner agrees not to conduct any activities on or about the Alley that constitute waste or nuisance or any activities which constitute a continuing or repeated and unreasonable annoyance of which the City is notified by the owners or occupants of neighboring property or other members of the public.
9. **Indemnification**- In consideration of City allowing Owner to construct and maintain the Improvements on City property, Owner agrees to indemnify and hold harmless City from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained on City property. Owner shall further indemnify and hold City 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 City by reason of such claim, Owner, upon notice from City, shall defend City at Owner's expense by counsel satisfactory to City. Owner, as a material part of the consideration to City, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed

and maintained on City property arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against City.

10. **Compliance with Laws** - The Permitted Use of the Alley shall conform to all applicable zoning laws and regulations. Owner shall comply, at Owner's expense with all applicable laws, regulations, rules and orders with respect to the use of the Alley, regardless of when they become or became effective, including, without limitation, those relating to construction, grading, signage, health, safety, noise, environmental protection, hazardous materials, waste disposal and water and air quality, and shall furnish reasonably satisfactory evidence of such compliance upon the written request of the City.

11. **Notices**-All notices required or permitted to be given under this Agreement shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or by overnight courier, to the appropriate address indicated below or at such other place or places as either party may from time to time designate in written notice given to the other. Notices shall be deemed sufficiently served four days after the date of mailing or upon personal delivery.

The City:

To Owner:

City of Ketchum
Post Office Box 2315
Ketchum, Idaho 83340

Residences at One Twenty Owners Association
PO Box 5793
Ketchum, ID 83340

12. **Assignment** - Owner shall have the right to assign and transfer this Agreement to any party who purchases one hundred (100%) of the Development, upon receiving the written consent of the City, which consent to assign shall not be unreasonably withheld or delayed. The City and any subsequent assignee may not consent to subsequent modifications to this License with assignees, sublessors or successors of Owner without notifying Owner and obtaining Owner's consent thereto.

13. **No Waiver**- No waiver of any default or breach of any covenant of this Agreement by either party shall be implied from any omission by either party to take action on account of such default other than the default specified in the waiver, and then the waiver shall be operative only for the time and to the extent stated. Waivers of any covenant, term or condition by either party shall not be construed as waivers of any subsequent breach of the same covenant, term or condition. The consent or approval by either party to or for any act by either party requiring further consent or approval shall not be deemed to waiver or render unnecessary that party's consent or approval to or

of any subsequent similar acts.

14. **Severability** - Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.
15. **Attorney's Fees** - If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the party in the proceeding shall receive, in addition to all court costs, reasonable attorney's fees.
16. **No Costs to the City** - Except as expressly set forth in this Agreement to the contrary, Owner shall bear all costs and expenses of any kind or nature in connection with Owner's use of the Alley.
17. **Waiver of Liability** - Neither the City nor any of its council members, commissions, departments, boards, officers, agents or employees, when acting of the City behalf, shall be liable for any damage to the property of Owner or its Agents, or for any bodily injury or death to such persons resulting or arising from the condition of the Alley or its use by Owner, or if such damage occurs before the Effective Date, unless caused by the intentional acts of the City nor any of its council members, commissions, departments, boards, officers, agents or employees.
18. **Non-Discrimination** - Owner shall not, in the operation and use of the Alley, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, or disability.
19. **Governing & Law** - The rights and liability of the parties under this Agreement shall be interpreted in accordance with the laws of the State of Idaho. The Venue shall be in the Idaho 5th Judicial District, Blaine County, Idaho.
20. **Taxes** - Any and all real property tax or any other form of tax assessed or imposed against the Alley arising out of or attributable to Owner's use shall be borne by Owner.
21. **Utilities** - Owner shall pay for all water, gas, heat, light, power, telephone, and other utilities and services applied to the Alley and used by Owner or its Agents, together with any taxes thereon.
22. **Successors and Assigns** - This Agreement shall be binding upon and inures to the

benefit of each of the parties hereto and their respective successors and assigns.

23. **Interpretation/Amendment**-This Agreement constitutes the complete expression of the agreement between the parties hereto and supersedes any prior agreements, whether written or oral, concerning the subject of this Agreement which are not fully expressed herein. Any addition to, deletion from, termination' extension or any other modification or to this Agreement must be in writing signed by the party against whom such modification operates.

24. **Recordation** - Upon execution of this Agreement, the City shall duly record the Agreement in the public records of Blaine County, Idaho and shall thereafter promptly submit a conformed copy of the same to Owner.

IN WITNESS WHEREOF, the parties have executed this License Agreement as of the day and year first written above by their duly authorized representatives.

OWNER:

CITY OF KETCHUM:

By: _____

By: _____

Neil Bradshaw, Mayor

ATTEST:

Trent Donat
City Clerk

STATE OF _____)
) ss.
County of _____)

On this ____ day of _____, 2023, before me, the undersigned Notary Public in and for said State, personally _____ to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT "A"

City of Ketchum
Approved

BLD216-0016
11/17/21

REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this Project except by agreement in writing with Galena Engineering, Inc.



LEGEND

	Property Line		PBO = Power Box
	Adj. Lot Line		PMH = Power Manhole
	Centerline		S = Sewer Main
	FD5/8 = Found 5/8" Rebar		SS = Sewer Service
	CNTRL = Survey Control		SMH = Sewer Manhole
	SET5/8 = Set 5/8" Rebar		SD = Storm Drain
	5' Contour Interval		CB = Catch Basin
	1' Contour Interval		DWELL = Dry Well
	Curb & Gutter		SDMH = Storm Drain Manhole
	FNC = Fence Line		KCWL = Ketchum City Water Line (4")
	Building		KSW = 4" Ketchum Spring Line (10')
	Asphalt		WS = Water Service
	Concrete Sidewalk		WV = Water Valve
	Gravel Drive		AP = Angle Point
	Pavers		BEG = Beginning
	RTW = Retaining Wall		BOW = Back of Walk
	EOG = Edge of Gravel		CC = Curb Cut
	CT = Conifer Tree		COR = Corner
	DT = Deciduous Tree		EOA = Edge of Asphalt
	SGN = Sign		EOC = Edge of Concrete
	GM = Gas Main		EOP = Edge of Pavers
	TVB = Cable TV Buried		IC = Irregular Cap
	TVR = Cable TV Riser		LIP = Lip of Gutter
	PHB = Buried Telephone Line		NC = No Cap
	PHBOX = Telephone Riser		NG = Natural Ground
	PB = Buried Power Line		PC = Point of Curve
			POC = Point of Curvature
			TA = Top of Asphalt
			TBC = Top Back of Curb
			TOE = Toe of Slope
			TOP = Top of Slope
			TP = Top of Pavement
			TW = Top of Wall
			X-WLK = Crosswalk

NOTES

- The purpose of this map is to show topographical information as it existed on the date the field survey was performed. Changes may have occurred to site conditions since survey date (12/28/2020).
- Boundary information is based on Found Monumentation. Please refer to the Official Map of the Village of Ketchum, Instr#302967, records of Blaine County, Idaho.
- Underground utility locations are based on above ground appurtenances / utilities visible at the time of the survey, and underground utility locates performed for previous work, and City maps. Utilities should be located prior to any excavation.
- Galena Engineering Inc. has not received a Title Policy from the client and has not been requested to obtain one. Relevant information that may be contained within a Title Policy may therefore not appear on this map and may affect items shown hereon. It is the responsibility of the client to determine the significance of the Title Policy information and determine whether it should be included. If the client desires for the information to be included they must furnish said information to Galena Engineering, Inc. and request it be added to this map.
- Benchmark is top of 5/8" rebar marking the intersection of 8th Street and Washington Avenue, elevation = 5807.89. Point elevations shown are truncated (i.e. 19.2 is 5819.2). Vertical Datum is NAVD 1988.

**A TOPOGRAPHIC MAP SHOWING
LOT 5, BLOCK 33, CITY OF KETCHUM
780 N 1ST AVENUE**
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO
PREPARED FOR GALENA PEAK PARTNERS/HOLLIS RUMPELTES ARCHITECTS



DESIGNED BY _____
DRAWN BY _____
SMF
CHECKED BY _____

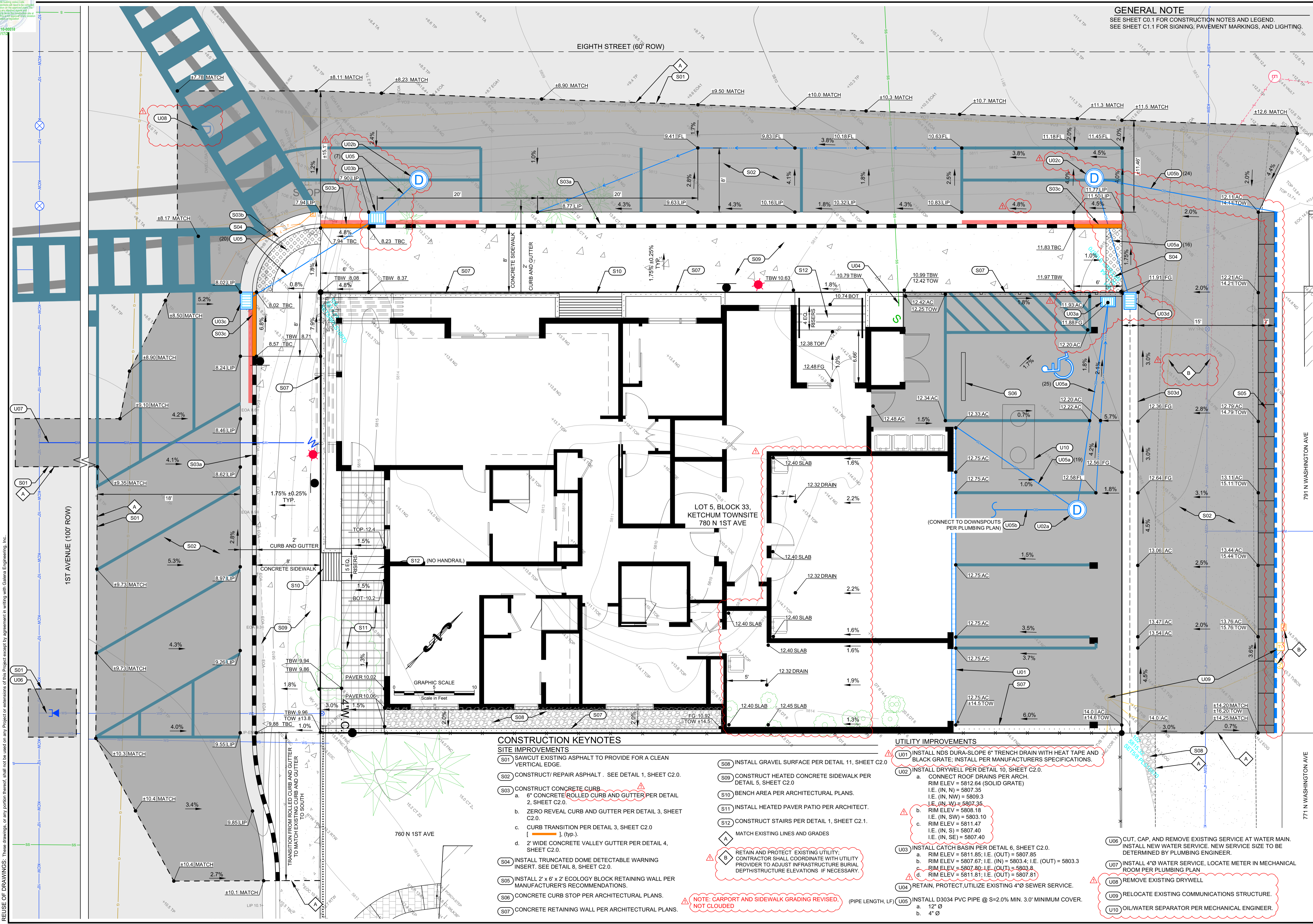
GALENA
ENGINEERING, INC.
Civil Engineers & Land Surveyors
317 N. River Street
Halley, Idaho 83333
(208) 788-1705
email: galena@galena-engineering.com

PURPOSE:	NO.	DATE	BY	REVISIONS
TOPO				

EXHIBIT "B"

City of Ketchum
 Approved
 BLD2116-00016
 11/11/21
 REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this project except by agreement in writing with Galena Engineering, Inc.

GENERAL NOTE
 SEE SHEET C0.1 FOR CONSTRUCTION NOTES AND LEGEND.
 SEE SHEET C1.1 FOR SIGNING, PAVEMENT MARKINGS, AND LIGHTING.



SITE, GRADING, AND DRAINAGE PLAN
780 N 1ST AVENUE
 LOCATED WITHIN SECTION 13, T. 4 N., R. 17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO
 PREPARED FOR GALENA PEAK PARTNERS

ORIGINAL SIGNED BY
 SAMANTHA STAHLNECKER
 DATE ORIGINAL SIGNED:
 11/01/2021
 PROFESSIONAL ENGINEER
 LICENSED
 STATE OF IDAHO
 17618
 ORIGINAL ON FILE AT
 OFFICE OF GALENA
 ENGINEERING
 (HAILEY, ID)

SKS DESIGNED BY
 SKS
 DRAWN BY
 SKS
 CHECKED BY
 SKS

GALENA
ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 317 N. River Street
 Hailey, Idaho 83433
 (208) 788-1705
 email: galena@galena-engineering.com

NO.	DATE	BY	REVISIONS
1	11/01/2021	SKS	RESPONSES TO CITY ENGINEERING REVIEW DATED 10/25/21

PURPOSE: 09.22.2021 ISSUE FOR BUILDING PERMIT

CONSTRUCTION KEYNOTES

SITE IMPROVEMENTS

- S01 SAWCUT EXISTING ASPHALT TO PROVIDE FOR A CLEAN VERTICAL EDGE.
- S02 CONSTRUCT/REPAIR ASPHALT. SEE DETAIL 1, SHEET C2.0.
- S03 CONSTRUCT CONCRETE CURB
 - a. 6" CONCRETE ROLLED CURB AND GUTTER PER DETAIL 2, SHEET C2.0.
 - b. ZERO REVEAL CURB AND GUTTER PER DETAIL 3, SHEET C2.0.
 - c. CURB TRANSITION PER DETAIL 3, SHEET C2.0 [(typ.)].
 - d. 2' WIDE CONCRETE VALLEY GUTTER PER DETAIL 4, SHEET C2.0.
- S04 INSTALL TRUNCATED DOME DETECTABLE WARNING INSERT. SEE DETAIL 8, SHEET C2.0.
- S05 INSTALL 2' x 6' x 2' ECOLOGY BLOCK RETAINING WALL PER MANUFACTURER'S RECOMMENDATIONS.
- S06 CONCRETE CURB STOP PER ARCHITECTURAL PLANS.
- S07 CONCRETE RETAINING WALL PER ARCHITECTURAL PLANS.

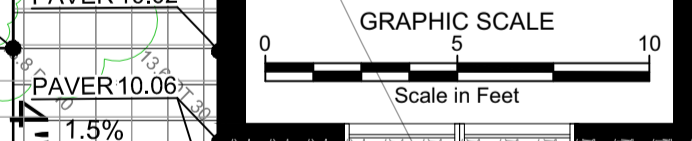
- S08 INSTALL GRAVEL SURFACE PER DETAIL 11, SHEET C2.0
- S09 CONSTRUCT HEATED CONCRETE SIDEWALK PER DETAIL 5, SHEET C2.0
- S10 BENCH AREA PER ARCHITECTURAL PLANS.
- S11 INSTALL HEATED PAVER PATIO PER ARCHITECT.
- S12 CONSTRUCT STAIRS PER DETAIL 1, SHEET C2.1.
- MATCH EXISTING LINES AND GRADES
- RETAIN AND PROTECT EXISTING UTILITY; CONTRACTOR SHALL COORDINATE WITH UTILITY PROVIDER TO ADJUST INFRASTRUCTURE BURIAL DEPTH/STRUCTURE ELEVATIONS IF NECESSARY.

NOTE: CARPORT AND SIDEWALK GRADING REVISED, NOT CLOUDED (PIPE LENGTH, LF)

UTILITY IMPROVEMENTS

- U01 INSTALL NDS DURA-SLOPE 6" TRENCH DRAIN WITH HEAT TAPE AND BLACK GRATE; INSTALL PER MANUFACTURER'S SPECIFICATIONS.
- U02 INSTALL DRYWELL PER DETAIL 10, SHEET C2.0
 - a. CONNECT ROOF DRAINS PER ARCH. RIM ELEV = 5812.64 (SOLID GRATE). I.E. (IN, N) = 5807.35 I.E. (IN, NW) = 5809.3 I.E. (IN, W) = 5807.35
 - b. RIM ELEV = 5808.18 I.E. (IN, SW) = 5803.10 I.E. (IN, S) = 5811.47 I.E. (IN, SE) = 5807.40
 - c. RIM ELEV = 5811.47 I.E. (IN, S) = 5807.40 I.E. (IN, SE) = 5807.40
 - d. RIM ELEV = 5811.81; I.E. (OUT) = 5807.81
- U03 INSTALL CATCH BASIN PER DETAIL 6, SHEET C2.0
 - a. RIM ELEV = 5811.85; I.E. (OUT) = 5807.85
 - b. RIM ELEV = 5807.67; I.E. (IN) = 5803.4; I.E. (OUT) = 5803.3
 - c. RIM ELEV = 5807.80; I.E. (OUT) = 5803.8
 - d. RIM ELEV = 5811.81; I.E. (OUT) = 5807.81
- U04 RETAIN, PROTECT, UTILIZE EXISTING 4" SEWER SERVICE.
- U05 INSTALL D3034 PVC PIPE @ S=2.0% MIN. 3.0' MINIMUM COVER.
 - a. 12" Ø
 - b. 4" Ø

- U06 CUT, CAP, AND REMOVE EXISTING SERVICE AT WATER MAIN. INSTALL NEW WATER SERVICE. NEW SERVICE SIZE TO BE DETERMINED BY PLUMBING ENGINEER.
- U07 INSTALL 4"Ø WATER SERVICE. LOCATE METER IN MECHANICAL ROOM PER PLUMBING PLAN
- U08 REMOVE EXISTING DRYWELL
- U09 RELOCATE EXISTING COMMUNICATIONS STRUCTURE.
- U10 OIL/WATER SEPARATOR PER MECHANICAL ENGINEER.



WHEN RECORDED, PLEASE RETURN TO:

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

RIGHT-OF-WAY ENCROACHMENT AGREEMENT #24897

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 The Residences at One Twenty Owners Association ("Owner") whose mailing address is PO Box 5793, Ketchum, ID 83340.

RECITALS

WHEREAS, Owner is the owner of real property located at 120 8th Street and legally described as Ketchum Townsite Lot 5 Blk 33 ("Subject Property"), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit placement of snowmelt within the sidewalk areas adjacent to the property along First Ave and Eight Streets. 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 construct the sidewalk, street, curb and gutter and any landscaping as depicted in Exhibit A, as 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 snowmelt within the sidewalk areas as identified in Exhibit "A" within the public right-of-way on N 1st Ave and 8th Streets adjacent to the subject property, 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 10 days upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" shall be approved by the City of Ketchum prior to any modifications taking place.

3. Snowmelt systems installed in the public right-of-way shall be installed and operate at all times during the winter according to the following:

- The system shall meet the requirements of the International Energy Conservation Code (2018 IECC, 403.12.2)
- The system shall have an electronic main control board to operate the system that is programmable and optimizes the way the system functions.
- Installation of in-ground control sensors linked to the main control board that detect snow and ice on the surface, monitor the sidewalk or driveway temperature, and automatically activates the system to be turned on or off based on the snow condition and air temperature.

4. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation of the Improvements, to the satisfaction of the Director of Streets and Facilities.

5. 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 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Successors and Assigns - This Agreement shall be binding upon and inures to the benefit of each of the parties hereto and their respective successors and assigns.

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

14. 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.

OWNER:

CITY OF KETCHUM:

By: _____
Print: _____

By: _____
Neil Bradshaw
Its: Mayor

Attest: _____
Trent Donat, City Clerk

STATE OF _____,)
County of _____) ss.

On this ____ day of _____, 2023, before me, the undersigned Notary Public in and for said State, personally appeared _____, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

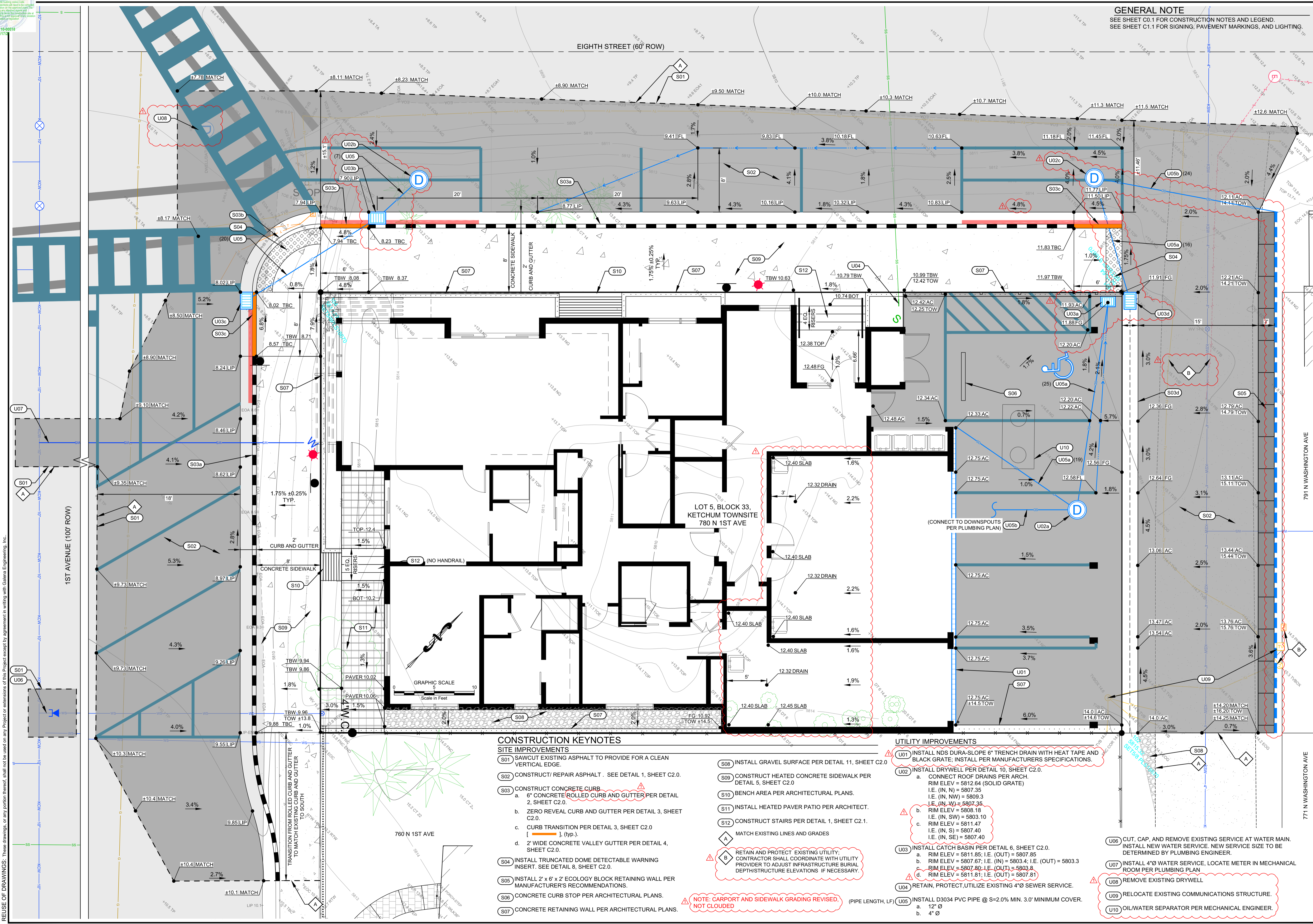
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT "A"

City of Ketchum
 Approved
 BLD2116-00016
 11/11/21
 REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extension of this project except by agreement in writing with Galena Engineering, Inc.

GENERAL NOTE
 SEE SHEET C0.1 FOR CONSTRUCTION NOTES AND LEGEND.
 SEE SHEET C1.1 FOR SIGNING, PAVEMENT MARKINGS, AND LIGHTING.



CONSTRUCTION KEYNOTES

SITE IMPROVEMENTS

- S01 SAWCUT EXISTING ASPHALT TO PROVIDE FOR A CLEAN VERTICAL EDGE.
- S02 CONSTRUCT/REPAIR ASPHALT. SEE DETAIL 1, SHEET C2.0.
- S03 CONSTRUCT CONCRETE CURB
 - a. 6" CONCRETE ROLLED CURB AND GUTTER PER DETAIL 2, SHEET C2.0.
 - b. ZERO REVEAL CURB AND GUTTER PER DETAIL 3, SHEET C2.0.
 - c. CURB TRANSITION PER DETAIL 3, SHEET C2.0 [(typ.)].
 - d. 2' WIDE CONCRETE VALLEY GUTTER PER DETAIL 4, SHEET C2.0.
- S04 INSTALL TRUNCATED DOME DETECTABLE WARNING INSERT. SEE DETAIL 8, SHEET C2.0.
- S05 INSTALL 2' x 6' x 2' ECOLOGY BLOCK RETAINING WALL PER MANUFACTURER'S RECOMMENDATIONS.
- S06 CONCRETE CURB STOP PER ARCHITECTURAL PLANS.
- S07 CONCRETE RETAINING WALL PER ARCHITECTURAL PLANS.

- S08 INSTALL GRAVEL SURFACE PER DETAIL 11, SHEET C2.0.
- S09 CONSTRUCT HEATED CONCRETE SIDEWALK PER DETAIL 5, SHEET C2.0.
- S10 BENCH AREA PER ARCHITECTURAL PLANS.
- S11 INSTALL HEATED PAVER PATIO PER ARCHITECT.
- S12 CONSTRUCT STAIRS PER DETAIL 1, SHEET C2.1.
- MATCH EXISTING LINES AND GRADES
- RETAIN AND PROTECT EXISTING UTILITY; CONTRACTOR SHALL COORDINATE WITH UTILITY PROVIDER TO ADJUST INFRASTRUCTURE BURIAL DEPTHS/STRUCTURE ELEVATIONS IF NECESSARY.

UTILITY IMPROVEMENTS

- U01 INSTALL NDS DURA-SLOPE 6" TRENCH DRAIN WITH HEAT TAPE AND BLACK GRATE; INSTALL PER MANUFACTURER'S SPECIFICATIONS.
- U02 INSTALL DRYWELL PER DETAIL 10, SHEET C2.0.
 - a. CONNECT ROOF DRAINS PER ARCH. RIM ELEV = 5812.64 (SOLID GRATE). I.E. (IN, N) = 5807.35 I.E. (IN, NW) = 5809.3 I.E. (IN, W) = 5807.35
 - b. RIM ELEV = 5808.18 I.E. (IN, SW) = 5803.10 I.E. (IN, S) = 5811.47 I.E. (IN, SE) = 5807.40
 - c. RIM ELEV = 5811.47 I.E. (IN, S) = 5807.40 I.E. (IN, SE) = 5807.40
 - d. RIM ELEV = 5811.81; I.E. (OUT) = 5807.81
- U03 INSTALL CATCH BASIN PER DETAIL 6, SHEET C2.0.
 - a. RIM ELEV = 5811.85; I.E. (OUT) = 5807.85
 - b. RIM ELEV = 5807.67; I.E. (IN) = 5803.4; I.E. (OUT) = 5803.3
 - c. RIM ELEV = 5807.80; I.E. (OUT) = 5803.8
 - d. RIM ELEV = 5811.81; I.E. (OUT) = 5807.81
- U04 RETAIN, PROTECT, UTILIZE EXISTING 4" SEWER SERVICE.
- U05 INSTALL D3034 PVC PIPE @ S=2.0% MIN. 3.0' MINIMUM COVER.
 - a. 12" Ø
 - b. 4" Ø
- U06 CUT, CAP, AND REMOVE EXISTING SERVICE AT WATER MAIN. INSTALL NEW WATER SERVICE. NEW SERVICE SIZE TO BE DETERMINED BY PLUMBING ENGINEER.
- U07 INSTALL 4"Ø WATER SERVICE. LOCATE METER IN MECHANICAL ROOM PER PLUMBING PLAN
- U08 REMOVE EXISTING DRYWELL
- U09 RELOCATE EXISTING COMMUNICATIONS STRUCTURE.
- U10 OIL/WATER SEPARATOR PER MECHANICAL ENGINEER.

NOTE: CARPORT AND SIDEWALK GRADING REVISED, NOT CLOUDED (PIPE LENGTH, LF)

SITE, GRADING, AND DRAINAGE PLAN
780 N 1ST AVENUE
 LOCATED WITHIN SECTION 13, T. 4 N., R. 17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO
 PREPARED FOR GALENA PEAK PARTNERS

ORIGINAL SIGNED BY SAMANTHA STAHLNECKER
 DATE ORIGINAL SIGNED: 11/01/2021
 PROFESSIONAL ENGINEER LICENSED 17618
 STATE OF IDAHO
 ORIGINAL ON FILE AT OFFICE OF GALENA ENGINEERING (HAILEY, ID)

GALENA ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 317 N. River Street
 Hailey, Idaho 83433
 (208) 788-1705
 email: galena@galena-engineering.com

PURPOSE:	09.22.2021 ISSUE FOR BUILDING PERMIT
NO. DATE BY	REVISIONS
1	11/01/2021 SKS RESPONSES TO CITY ENGINEERING REVIEW DATED 10/25/21