



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

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- 

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

**Sustainability Impact:**

Financial Impact:

None OR Adequate funds exist in account:	None
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Attachments:

1. Application and Supporting Materials
2. Right-of-Way Encroachment Agreement



City of Ketchum

E23-013

<b>OFFICIAL USE ONLY</b>
Date Received: 6.30.23
By: JMcColey
Permit Fee: \$150.-
Date Paid: 6.30.23

### RIGHT-OF-WAY ENCROACHMENT PERMIT APPLICATION

Property Owner: Elizabeth W. Shoemaker  
 Owner Mailing Address: 151 4th St W, Ketchum 83340 PO. 2716  
 Project Contact: Elizabeth Shoemaker  
 Contact Email: elizshoe@aol.com  
 Contact Phone Number: (310-962-1008)  
 Property Street Address: 130 River St E, Ketchum ID

Encroachment(s) in Right-of-Way (be specific as possible):  
River Street for the right of way affected

Name or Description of Right-of-Way Affected: River St. E.

Width of Right-of-Way: 80 feet

Dimensions of Right-of-Way Encroachment(s): existing trees & curb & gutter

Attach diagram identifying streets and/or alleys, total width of right-of-way, dimensions of right-of-way encroachment, types(s) of encroachment and visual aids sufficient to show the impacts of the encroachment.

Owner's Signature: Elizabeth Shoemaker Date: 6/30/2023

Once your application has been received, we will review it and contact you with next steps.  
 No further action is required at this time.

#### Administrative Use Only

Date Received: \_\_\_\_\_ Date of Council Meeting: \_\_\_\_\_  
 Meeting: \_\_\_\_\_ Council Meeting Date: \_\_\_\_\_  
 Action Taken by Council: \_\_\_\_\_  
 Date approved: \_\_\_\_\_ Date Denied: \_\_\_\_\_

191 5th St. West | P.O. Box 2315 | Ketchum, ID 83340 | main 208.726.7801 | fax 208.726.7812

Facebook/CityofKetchum | twitter.com/Ketchum\_Idaho | www.ketchumidaho.org



**CITY OF KETCHUM**

P.O. Box 2315  
Ketchum ID 83340  
Phone: (208) 726-3841  
Fax: (208) 727-5070

**INVOICE**

Date	Number	Page
06/30/2023	6867	1

**Bill To:** ELIZABETH SHOEMAKER  
151 4TH ST W UNIT 2716  
KETCHUM ID 83340

**Customer No.** 2186  
**Project:** 130 RIVER ST  
**Terms:** Due Upon Receipt  
**Invoice Due Date:** 06/30/2023

Quantity	Description	Unit Price	Net Amount
1	RIGHT OF WAY ENCROACHMENT AGREEMENT	150.00	150.00

Please remit payment via:  
<https://www.ketchumidaho.org/administration/page/online-payments>  
OR  
City of Ketchum  
PO Box 2315  
Ketchum, ID 83340

<b>Amount</b>	150.00
<b>Balance Due</b>	<u>150.00</u>

City of Ketchum  
191 W 5TH ST  
PO Box 2315  
Ketchum ID 83340

208-726-3841

Receipt No: 2.001897

Jun 30, 2023

2186  
ELIZABETH SHOEMAKER  
151 4TH ST W UNIT 2716  
130 RIVER ST  
KETCHUM ID 83340

Previous Balance:	150.00
ACCOUNTS RECEIVABLE - Payment	150.00
<hr/>	
Total:	150.00
New Balance:	.00
<hr/>	
Check	150.00
Check No: 1962	
Payor: ELIZABETH SHOEMAKER	
Total Applied:	150.00
<hr/>	
Change Tendered:	.00
<hr/>	

Duplicate Copy

06/30/2023 4:13 PM

**RECORDING REQUESTED BY AND WHEN  
RECORDED RETURN TO:**

City Clerk, City of Ketchum  
PO Box 2315  
Ketchum Idaho, 83340

(Space Above Line For Recorder's Use)

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**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22870**

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 83340 and ELIZABETH SHOEMAKER, ("Owner"), whose mailing address is Post Office Box 2716 Ketchum, Idaho 83340 and who owns real property located at 130 E River Street, Ketchum, ID 83340 ("subject property").

*RECITALS*

WHEREAS, curb and gutter and landscaping in the right of way adjacent to the subject property were installed in 1995 when the subject property was developed. These improvements were installed without a Right-of-Way Encroachment Agreement;

WHEREAS, Owner wishes to maintain existing and any future vegetation adjacent to the subject property from the property line to the curb and gutter on River Street. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements") and;

WHEREAS, any future vegetation and modifications to said vegetation will be reviewed and approved by the City Arborist & City Engineer;

WHEREAS, Owner will ensure landscaping features do not encroach on adjacent sidewalk;

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, following construction of the Improvements, the Owner will restore the right-of-way, as shown in Exhibit "A", 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 maintain the Improvements identified in Exhibit "A" within the public right-of-way adjacent to 130 E River Street 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 street, 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.

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 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.





STATE OF IDAHO    )  
                                  ) ss.  
County of Blaine    )

On this \_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

## EXHIBIT A



